

AGENDA PLAN COMMISSION MEETING RICHFIELD VILLAGE HALL 4128 HUBERTUS ROAD, HUBERTUS, WISCONSIN March 5, 2020 7:00 P.M.

Pursuant to the requirements of Section 19.84, Wis. Stats., notice is hereby given of a meeting of the Village of Richfield Plan Commission, at which a quorum of the Village Board may attend in order to gather information about a subject which they have decision making responsibility. The meeting will be held at the above noted date, time and location. Notice of Village Board Quorum, (Chairperson to announce the following if a quorum of the Village Board is in attendance at the meeting: "Please let the minutes reflect that a quorum of the Village Board is present and that the Village Board members may be making comments under the Public Comments section of the agenda, during any Public Hearing(s) or if the rules are suspended to allow them to do so.")

- 1. Call to Order/Determination of quorum
- 2. Verification of Open Meetings Law compliance
- 3. Pledge of Allegiance
- 4. APPROVAL OF MINUTES
 - a. February 6, 2020 Regular Meeting
- 5. DISCUSSION/ACTION
 - a. Discussion and possible recommendation to the Village Board regarding a proposed Ordinance Amendment to the P-1, Parks and Recreation District to allow "camping cabins" as a Conditional Use in Glacier Hills Park Washington County Planning and Parks Department, Mr. Eric Hyde, Petitioner
 - b. Discussion and possible recommendation to the Village Board regarding a proposed Ordinance Amendment to Section 70.241 entitled Conditional Use Administration Village Board, Petitioners
 - c. Discussion regarding Chapter 70 Zoning Code Recodification

6. ADJOURNMENT

Additional explanation of items on the agenda (Communication Forms) can be found on the village's website at www.richfieldwi.gov.Notification of this meeting has been posted in accordance with the Open Meeting Laws of the State of Wisconsin. It is possible that members of and possibly a quorum of members of other governmental bodies of the municipality may be in attendance at the above stated meeting to gather information; no action will be taken by any governmental body at the above stated meeting other than the governmental body specifically referred to above in this notice. Requests from persons with disabilities who need assistance to participate in this meeting or hearing should be made to the Village Clerk's office at 628-2260 with as much advance notice as possible.

4a

1. Call to Order/Determination of quorum

Chairman Jim Otto called the meeting to order at 7:01 PM, noting there was a quorum present.

In attendance were Chairman Otto, Commissioners Bartel, Coté, Lalk, and Melzer

Also Present: Administrator Healy, Deputy Clerk Cox and Village Planning Consultant Tim Schwecke

Excused Absent: Vice-Chairman Berghammer and Trustee Collins

2. Verification of Open Meetings Law compliance

Administrator Healy stated that the agendas were posted at the Richfield, Hubertus, and Colgate U.S. Post Offices as well as Village Hall. Digital copies of the agenda were sent to the <u>West Bend Daily News</u>, <u>Germantown Express News</u>, <u>Hartford Times Press</u>, and the <u>Milwaukee Journal Sentinel</u>.

3. Pledge of Allegiance

4. Approval of Minutes

- a. November 7, 2019 Regular Meeting
- b. December 5, 2019 Regular Meeting

Motion by Commissioner Lalk to approve the November 7, 2019 Regular Meeting Minutes; Seconded by Commissioner Melzer; Motion passed without objection.

Motion by Commissioner Melzer to approve the December 5, 2019 Regular Meeting Minutes; Seconded by Commissioner Bartel; Motion passed without objection.

5. DISCUSSION/ACTION

a. Discussion/Action regarding the expansion of a legal, non-conforming building and a Site and Building review for Pleasant Hill Pub and Grill located at 2102 STH 164 (Tax Key: V10_008200Z) – Pleasant Hill Management LLC, Petitioner

Architectural Design Plan:

Motion by Commissioner Cote to accept the recommendation of the Architectural Review Board for the approval of the design elevations, as presented, for Pleasant Hill Pub and Grill, located at 2102 STH 164 (Tax Key: V10_008200Z) and to allow the expansion of the legal, non-conforming building subject to Village Code Section 70.161A relating to Special Exceptions and Ordinance O2016-10-01; Seconded by Commissioner Lalk; Motion passed without objection.

Site, Grading and Erosion Control Plan:

Motion by Commissioner Cote to accept the recommendation of the Village Engineer per his letter dated January 23, 2020 for Pleasant Hill Pub and Grill located at 2102 STH 164 (Tax Key: V10 008200Z); Seconded by Commissioner Lalk; Motion passed without objection.

- b. Discussion and possible recommendation to the Village Board regarding a One-Lot Certified Survey Map (CSM) for property located at 4167 Pioneer Road (Tax Key: V10_0066) – Lofy Asset Trust, Petitioner
- c. Discussion and possible recommendation to the Village Board regarding a Rezoning petition for property located at 4167 Pioneer Road (V10_0066) from A-1, Exclusive Agricultural District to A-2, General Agricultural District Lofy Asset Trust, Petitioner

(Items b and c were discussed together)

CSM

Motion by Commissioner Lalk to recommend to the Village Board the approval of the proposed One-Lot CSM for Lofy Asset Trust for property located at 4167 Pioneer Road (Tax Key: V10 0066) subject to the following Specific and General Conditions of Approval:

Specific Conditions of Approval:

- 1. The Plan Commission Signature Block be removed from page 3 of the CSM.
- 2. The Village Board approve the proposed Rezoning of the subject property from A-1 to A-2.

General Conditions of Approval:

- 1. Staff and Governmental Approval: Subject to the developer satisfying all comments, conditions and concerns of the Village Planner, Village Engineer and all reviewing, objecting and approving bodies, which may include but not limited to the State of Wisconsin Department of Safety and Professional Services per Ch. 236, Wisconsin Statues and Ch. SPS 385, Wisconsin Administrative Code; the State of Wisconsin Department of Transportation per Ch. Trans. 236, Wisconsin Statutes, and Washington County: in regard to the Final Plat, and obtaining all necessary permits and approvals, and satisfaction of applicable requirements of State, federal and Village Codes, statutes lawful orders, prior to commencing recording of the Final Plat, whichever is earlier.
- 2. Professional Fees: Petitioner shall, on demand, reimburse the Village of all costs and expenses of any type that the Village incurs in connection with this development, including the cost of professional services incurred by the Village (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions.
- 3. Payment of Charges: Any unpaid bills owned to the Village by the subject property owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permits fees or any other fees owned to the Village shall be placed upon the tax roll for the Subject Property if not paid within 30 days of billing by the Village, pursuant to Section 66.0627, Wis. Stats. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Village, including possible cause for termination of the conditional approval.

Seconded by Commissioner Cote; Motion passed without objection.

Rezoning

Motion by Commissioner Lalk to recommend to the Village Board the approval of the petitioned rezoning for Lofy Asset Trust for property located at 4167 Pioneer Road (Tax Key: V10 0066) from A-1, Exclusive Agricultural District to A-2, General Agricultural District; Seconded by Commissioner Melzer; Motion passed without objection.

- d. Discussion and possible recommendation to the Village Board regarding a One-Lot CSM for property located at 2207 Hillside Road (Tax Key: V10_008400B) – David W Lofy, Mary J Lofy, Petitioners
- e. Discussion and possible recommendation to the Village Board regarding a Rezoning petition for a portion of property identified by Tax Key: V10_008400Z and V10_008700Z from A-1, Exclusive Agricultural District to Rs-3, Single Family Residential District Lofy Asset Trust, Petitioner

(Items d and e were discussed together)

CSM

Motion by Commissioner Melzer to recommend to the Village Board the approval of the proposed One-Lot CSM for David W Lofy and Mary J Lofy for property located at 2207 Hillside Road (Tax Key: V10 008400B) subject to the following Specific and General Conditions of Approval:

Specific Conditions of Approval:

- 1. The Plan Commission Signature Block be removed from page 3 of the CSM.
- 2. The Village Board approve the proposed Rezoning of the subject property from A-1 to Rs-3.

General Conditions of Approval:

- 1. Staff and Governmental Approval: Subject to the developer satisfying all comments, conditions and concerns of the Village Planner, Village Engineer and all reviewing, objecting and approving bodies, which may include but not limited to the State of Wisconsin Department of Safety and Professional Services per Ch. 236, Wisconsin Statues and Ch. SPS 385, Wisconsin Administrative Code; the State of Wisconsin Department of Transportation per Ch. Trans. 236, Wisconsin Statutes, and Washington County; in regard to the Final Plat, and obtaining all necessary permits and approvals, and satisfaction of applicable requirements of State, federal and Village Codes, statutes lawful orders, prior to commencing recording of the Final Plat, whichever is earlier.
- 2. Professional Fees: Petitioner shall, on demand, reimburse the Village of all costs and expenses of any type that the Village incurs in connection with this development, including the cost of professional services incurred by the Village (including engineering, legal, planning and other consulting fees) for the review and preparation of required documents or attendance at meetings or other related professional services for this application, as well as to enforce the conditions in this conditional approval due to a violation of these conditions.
- 3. Payment of Charges: Any unpaid bills owned to the Village by the subject property owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permits fees or any other fees owned to the Village shall be placed upon the tax roll for the Subject Property if not paid within 30 days of billing by the Village, pursuant to Section 66.0627, Wis. Stats. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Village, including possible cause for termination of the conditional approval.

Seconded by Commissioner Bartel; Motion passed without objection.

Rezoning

Motion by Commissioner Melzer to recommend to the Village Board the approval of the petitioned rezoning for David W. Lofy and Mary J. Lofy for property located at 2207 Hillside Road (Tax Key: V10 008400B) from A-1, Exclusive Agricultural District to Rs-3, Single Family Residential District; Seconded by Commissioner Bartel; Motion passed without objection.

f. Discussion regarding Chapter 70 Zoning Code Recodification

Administrator Healy and Consultant Planner Tim Schwecke discuss the "homework" to be considered by the Plan Commission in March which is related to processes and procedures for applications in the Village's Zoning Code. The Plan Commission reviewed the proposed Zoning Map and several proposed Sections of the Zoning Code. Discussion ensued regarding the merits of the same.

6. ADJOURNMENT

Motion by Commissioner Lalk to adjourn; Seconded by Commissioner Bartel; Motion passed without objection at 9:50 p.m.

Respectfully Submitted,

Jim Healy Village Administrator



VILLAGE OF RICHFIELD

PLAN COMMISSION COMMUNICATION FORM



MEETING DATE: March 5, 2020

SUBJECT: Ordinance Amendment to P-1, Parks and Recreation District - Camping Cabins in Glacier

Hills Park

DATE SUBMITTED: February 28, 2020

SUBMITTED BY: Jim Healy, Village Administrator

POLICY QUESTIONS: DOES THE PLAN COMMISSION WISH TO RECOMMEND TO THE VILLAGE BOARD THE APPROVAL OF THE PROPOSED ORDINANCE AMENDMENT?

ISSUE SUMMARY:

Washington County has proposed an amendment to allow "Camping Cabins" as a Conditional Use in the P-1. Parks and Recreation District. This legislative amendment to our Zoning Code was discussed with the Village Board on January 23, 2020. It was the Village Board's recommendation that if the County was going to propose such an amendment that 1) it be handled as a Conditional Use and 2) it be limited to Glacier Hills Park.

Because of the way the new CUP laws have been written into Wisconsin State Statutes, the Plan Commission and the Village Board are required to hold a joint public hearing, so as to act in a quasi-judicial manner. Therefore, it would be inappropriate for the Plan Commission (and the same held true for the Village Board for their meeting on 2/27) to hear the reason "why" the County is proposing this Ordinance. But suffice it to say, it is likely we will be receiving a proposal should the Plan Commission and Village Board approve the proposed Conditional Use Administration language. From speaking with the County's Planning and Parks Department, the Plan Commissioners were encouraged to go visit Glacier Hills Park to see examples of these "camping cabins", many of which existed several decades ago when the site was utilized as an orphanage, along with other new structures which were not properly permitted by the Village.

In terms of the proposed Ordinance Amendment, given the timelines, the draft Ordinance has not been reviewed by the Village Attorney. However, it will be reviewed prior to the scheduled Public Hearing on March 19th. The proposed changes discussed are found in the County's memo to the Village dated February 12, 2020 attached herein. Village Staff has some minor concerns regarding the 70.207(D)(2)(b) through (d). This language contemplates traditional tent camping and should be stricken from the Code, unless the Plan Commission wants to recommend to the Village Board that tent camping be something that is still allowed.

FUTURE IMPACT AND ANALYSIS:

REVIEWED BY:

Village Deputy Clerk

Forward to Village Board: Yes Additional Approvals Needed: Yes

Signatures Required: Yes

ATTACHMENTS

- 1. Memo dated 2/12/20 from Mr. Eric Hyde, Washington County Planning and Parks Trail Manager
- 2. P-1, Parks and Recreation District (Existing Code)
- 3. ATCP 79
- 4. SPS 327
- 5. DRAFT Class II Public Hearing Notice to create 70.207(D)

STAFF RECOMMENDATION:

Motion to recommend to the Village Board the approval of the drafted amendment to Section 70.207(D) of the Village Code related to "camping cabins" in Glacier Hills Park, subject to the review and approval of the Village Attorney.



VILLAGE OF RICHFIELD

PLAN COMMISSION COMMUNICATION FORM

MEETING DATE: March 5, 2020

SUBJECT:

Ordinance Amendment to P-1, Parks and Recreation District - Camping Cabins in Glacier

Hills Park

DATE SUBMITTED: February 28, 2020

SUBMITTED BY:

Jim Healy, Village Administrator

APPROVED FOR SUBMITTAL BY Village Administrator

VILLAGE CLERK USE ONLY BOARD ACTION TAKEN

Resolution No. Ordinance No. Approved Other Continued To: Referred To: Denied File No.



Planning and Parks Department

Jamie Ludovic, Central Services Director

Debora Sielski, Deputy Planning and Parks Administrator

Eric Hyde, Parks & Trails Manager

Iblic Agency Center 1 Street, Suite 2300 P.O. Box 2003 nd, WI 53095-2003 (262) 335-4445 ax: (262) 335-6868 o.washington.wi.us shington.wi.us/PPD

Date: 2/12/20

To: Village of Richfield

From: Washington County Planning & Parks

RE: Follow up from 1/23/20 Village Board Meeting: Ordinance Revision Request (Campgrounds)

At the past January Village of Richfield Board Meeting (1/23/20), the Board requested that Washington County Park Staff work with the County's Attorney's Office to draft a revision to 70.207D.2. of Village Code to clearly distinguish that camping cabin campgrounds at Glacier Hills County Park are an allowable conditional use. ATCP 79 defines campgrounds as providing campsites offered with or without charge, for temporary overnight sleeping accommodations. Campsites are composed of camping units which are defined as a structure, including a tent, camping cabin, yurt, recreational vehicle, mobile home, or manufactured home, bus, van, or pickup truck. Since camping cabins are clearly defined in ATCP 79 and SPS 327 there is no need to call out camping cabins specifically in Village Ordinance. The County Attorney's Office recommended simply clarifying the specific County Park and updating the State Administrative Code references (add ACTP 79 and SPS 327 and remove HFS 178 which no longer exists. See below for the requested ordinance revision.

"70.207D.2. Campgrounds, including campgrounds located in Glacier Hills County Park, licensed under and operated in conformance with the requirements of HFS 178 ATCP 79 and SPS 327 of the Wisconsin Administrative Code that meet the following additional conditions and requirements"

We are asking the Village Board to approve this Ordinance Revision at the upcoming February 27th Village Board Meeting. Our next step would be to meet with the Plan Commission, submit a 'Business Plan of Operation Application', and get on the March 5th Plan Commission Meeting. Following that are intent is to come back to the Village Board Meeting on March 19 where the Village would hold a Public Hearing on the ordinance revision. We would look to have the Conditional Use Application brought forward in April for approval.

Sincerely,

ERIC HYDE

Parks & Trails Manager

E: eric.hyde@co.washington.wi.us

O: (262) 335-4802

C: (262) 483-1462

Public Agency Center

333 E. Washington St., Ste. 2300 West Bend, WI 53095-7986

Village of Richfield, WI Thursday, November 29, 2018

Chapter 70. Zoning

ARTICLE III. Districts

70.207. P-1 Park and Recreation District.

[Ord. No. 03-08-01, § 1(Exh. A), 8-21-2003]

- A. Intent. The P-1 park and recreation district is intended to provide for areas where the recreational needs, both public and private, of the populace can be met without undue disturbance of natural resources and adjacent uses.
- B. Permitted principal uses. Permitted principal uses in the P-1 district are as follows:
 - Boat access sites.
 - 2. Forest and wildlife preserves.
 - 3. Historic and monument sites.
 - 4. Public and private outdoor parks for active and passive recreation and leisure facilities and activities; including, but not limited to: play grounds and structures, picnic areas, walking and hiking trails, ball and racquet fields and courts, swimming beaches adjoining natural lakes and rivers, sledding, ice-skating, cross-country skiing.
 - Recreational and educational camps.
- C. Permitted accessory uses. Permitted accessory uses in the P-1 district are as follows:
 - 1. Structures necessary for the operation of a permitted use.
 - 2. Off-street parking areas.
 - Signs: See section 70.186.
- D. Conditional uses (see section 70.241. Conditional uses in the P-1 district are as follows:

- 1. Public and private commercial recreation and leisure activities, facilities or operations (indoor and outdoor), including, but not limited to: golf courses with or without accessory restaurant-type facilities, miniature golf and driving ranges, baseball batting facilities, archery, trap, skeet and other shooting ranges, swimming pools, arcade, bowling alley, health and fitness facilities, arenas and sports complexes, marinas.
- Campgrounds, licensed under and operated in conformance with the requirements of HFS 178 of the Wisconsin Administrative Code that meet the following additional conditions and requirements:
 - a. The minimum size of a campground shall be 10 gross acres.
 - b. The maximum number of individual campsites shall be 12 per net acre.
 - c. The minimum dimensions of a campsite shall be 50 feet wide by 70 feet long.
 - d. Each campsite shall be separated from other campsites within the campground by a yard area not less than 15 feet wide.
 - e. No individual campsite shall be located closer than 75 feet from a public highway or road right-of-way, nor closer than 40 feet to any other property boundary.
 - f. Each campground shall be completely enclosed except for permitted entrances and exits by either a temporary planting of fast-growing plant material, capable of reaching a height of 10 feet or more within two years, or a permanent evergreen planting, the individual trees to be of such a number and so arranged that within 10 years a dense screen will be formed. Such permanent planting shall be grown or maintained to a height of not less than 10 feet.
- E. Lot area and width. Lot area and width in the P-1 district are as follows:
 - Lots in the P-1 park district shall provide sufficient area for any principal structure or accessory structures as well as necessary off-street parking and loading areas.
 - 2. Lots shall be not less than 100 feet in width at the principal street access.
- F. Building height and size. Building height and size in the P-1 district are as follows:
 - 1. No building or parts of a building shall exceed 35 feet in height.

- 2. The sum total of the floor area of all buildings shall not exceed 10% of the total park area.
- G. Setback and yards. Setback and yards in the P-1 district are as follows: No building or structure shall be erected, altered or moved closer than 40 feet to a lot line.
- H. Parking and loading space. Parking and loading space in the P-1 district are as follows: There shall be sufficient offstreet parking space provided to accommodate users of the park or recreation area (see section 70.185).
- I. Minimum utility service. Minimum utility service in the P-1 district is electricity and wastewater treatment and disposal facilities and water supply system as required by the appropriate state and county agencies.
- J. Special regulations. To encourage and ensure that uses of land within the P-1 district are compatible with the uses of adjoining land and surrounding areas of the Village building and/or zoning permits for all uses in the P-1 district shall not be issued without prior review by the approval of the Village Plan Commission in accordance with the site, building and operations plan review requirements of section 70.133.

Register January 2020 No. 769

Chapter ATCP 79

CAMPGROUNDS

ATCP 79.01	Authority and purpose.
ATCP 79.02	Scope.
ATCP 79.03	Definitions.
ATCP 79.04	Plans and specifications for campgrounds.
ATCP 79.05	License to operate a campground.
ATCP 79.06	Department fees.
ATCP 79.07	Enforcement.
ATCP 79.08	Suspension or revocation of license.
ATCP 79.09	Appeals of actions by the department.
ATCP 79.10	Appeals of actions by agent health departments.
ATCP 79.11	Campsite use, designation, location, and density.
ATCP 79.12	Campground access and road systems.
ATCP 79.13	Camping units.
ATCP 79.14	Water supply; water systems and service connections
ATCP 79.15	Sewage and wastewater treatment and handling.
ATCP 79.16	Toilet facilities.
ATCP 79.17	Shower building.
ATCP 79.18	Petting zoos.
ATCP 79.19	Fish and game cleaning station.
ATCP 79.20	Garbage and refuse.
ATCP 79.21	Insect and rodent control.
ATCP 79.22	Fire prevention.
ATCP 79.23	Play equipment.
ATCP 79.24	General campground administration.
ATCP 79.25	Mobile or manufactured homes in a campground.
ATCP 79.26	Special event campgrounds.
ATCP 79.27	Rustic campsites

Note: Chapter H 78 as it existed on August 31, 1978 was repealed and a new chapter H 78 was created effective September 1, 1978. Chapter H 78 was renumbered chapter HSS 178, effective June 1, 1982; chapter HSS 178 as it existed on October 31, 1985 was repealed and a new chapter HSS 178 was created effective November 1, 1985. Chapter HSS 178 was renumbered chapter HFS 178 under s. 13.93 (2m) (b) 1., Stats., corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, January, 1997, No. 493. Chapter HFS 178 was renumbered chapter DHS 178 effective February 1, 2009, and corrections made under s. 13.92 (4) (b) 7., Stats., Register January 2009 No. 637. Chapter DHS 178 was repealed and recreated effective 2-1-16 by CR 15-001. Chapter DHS 178 was renumbered chapter ATCP 79 under s. 13.92 (4) (b) 1., Stats., Register June 2016 No. 726.

ATCP 79.01 Authority and purpose. This chapter is promulgated under the authority of s. 97.67,

Stats., to regulate the maintenance and operation of campgrounds in order to protect the health and satisfying

of the public.

History: CR 15-001; cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DHS 178.01 Register June 2016 No. 726; correction made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726.

ATCP 79.02 Scope.

- (1) APPLICABILITY. This chapter applies to all campgrounds, except that only s. ATCP 79.26, apply to special event campgrounds.
- (2) VARIANCE.

(a)

- 1. The department may approve a variance to a method, practice, material, equipment or design required under this chapter that will not be contrary to public health, safety or welfare if the department is provided with satisfactory proof that the variance will achieve results that are closely equivalent to the results of literal application of the requirement under this chapter.
- 2. To apply for a variance, the operator shall apply on a form provided by the department. An application for a variance from the requirements of this chapter shall be made in writing to the department, specifying all of the following. The department may require additional information from the operator before acting on the request:
 - **a.** The rule from which the variance is requested.
 - **b.** The specific alternative action which the operator proposes.
 - **c.** The reason for the request.
 - d. Justification that the variance will not adversely affect the public health, safety, or welfare.

Note: To obtain a form for requesting a variance, e-mail datepdfrsree@wisconsin.gov or contact the Bureau of Food and Recreational Businesses at (608) 224-4702 or PO Box 8911, Madison, Wisconsin 53708-8911.

- (b) The department shall approve or deny a request for a variance in writing within 30 business days after receiving a complete application for a variance and any additional information requested by the department. A variance approved by the department under par. (a) may be made conditional for:
 - 1. A defined period of time.
 - 2. Experimental or trial purposes.

History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DHS 178.02 Register June 2016 No. 726; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726.

ATCP 79.03 Definitions. In this chapter:

- (1) "Agent" means the city, county, or village designated by the department under s. 97.615 (2), Stats., and ch. ATCP 74 to issue licenses to and make investigations or inspections of public pools and water attractions.
- (2) "Approved" means acceptable to the department, based on its determination of conformance with this chapter and good public health practices.
- (3) "Campground" means a parcel or tract of land owned by a person, state, or local government that is designed, maintained, intended, or used for the purpose of providing campsites offered with or without charge, for temporary overnight sleeping accommodations.
- (4) "Camping cabin" means a building or other structure that is 400 square feet or less in area. A camping cabin includes a yurt, but does not include a tent, recreational vehicle, tourist rooming house, mobile home, or manufactured home.
- (5) "Camping trailer" has the meaning given in s. 340.01 (6m), Stats.

Note: Section s. 340.01 (6m), Stats., defines "camping trailer" to mean a recreational vehicle with a collapsible or folding structure designed for human habitation and towed upon a highway by a motor vehicle.

- (6) "Camping unit" means a structure, including a tent, camping cabin, yurt, recreational vehicle, mobile home, or manufactured home, bus, van, or pickup truck.
- (7) "Campsite" means an area of a campground that is designated by the operator as capable of accommodating an independent or dependent camping unit. A campsite may be one or a combination of the following:
 - (a) Individual campsite.
 - (b) Group campsite.
 - (c) Seasonal campsite.



- (d) Rustic campsite.
- (8) "Campground attribute" means any of the following:
 - (a) Water system.
 - (b) Water distribution system.
 - (c) POWTS.
 - (d) Sanitary dump station.
 - (e) Toilet building.
 - (f) Toilet room.
 - (g) Shower room.
 - (h) Campground road system.
 - (i) Campsite.
 - (j) A camping unit that is operator-provided.
 - (k) Any other operator-provided building or structure.
- (9) "Collection point" means an area within a campground used for the accumulation of garbage, refuse, or recyclables.
- (10) "Department" means the Wisconsin department of agriculture, trade and consumer protection.
- (11) "Dependent camping unit" means a camping unit that is not equipped with a toilet or toilet facilities.
- (12) "Dependent campsite" means an individual or group campsite that is capable of supporting one or more dependent camping units.
- (13) "Domestic wastewater" has the meaning given in s. SPS 381.01 (78).

Note: Section SPS 381.01 (78) reads: "Domestic wastewater" means the type of wastewater, not including storm water, normally discharged from or similar to that discharged from plumbing fixtures, appliances and devices including, but not limited to sanitary, bath, laundry, dishwashing, garbage disposal, and cleaning wastewaters.

- (14) "Group campsite" means a campsite designated for use by 7 or more campers.
- (15) "Independent camping unit" means a camping unit that is equipped with a self-contained water storage tank and toilet facility which discharges to a holding or transfer tank.
- (16) "Independent campsite" means an individual or group campsite that is capable of supporting one or more independent camping units.
- (17) "Individual campsite" means a campsite designated for use by 6 or fewer campers, unless the campers are members of an individual family.
- (17m) "Individual family" means the principal campsite occupant and persons related to that person as a spouse, child, parent, grandparent, sibling or grandchild, or the spouse's child, parent, grandparent, sibling, or grandchild.
- (18) "Manufactured home" has the meaning given in 42 USC 5402 (6).

Note: Section 42 USC 5402 (6) reads: "manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this chapter; and except that such term shall not include any self-propelled recreational vehicle."

(19) "Mobile home" has the meaning given in s. 101.91 (10), Stats.

Note: Section 101.91 (10) Stats., reads: "Mobile home" means a vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction, which has an overall length in excess of 45 feet. "Mobile home" includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, and all appliances and all other equipment carrying a manufacturer's warranty.

(20) "Motor home" has the meaning given in s. 340.01 (33m), Stats.

Note: Section 340.01 (33m), Stats., reads: "Motor home" means a motor vehicle designed to be operated upon a highway for use as a temporary or recreational dwelling and having the same internal characteristics and equipment as a mobile home.

(21) "Operator" means the owner of a campground or the person responsible to the owner for the operation of the campground.

- (22) "Operator-provided" means a thing made available to the public by the operator with or without charge.
- (23) "Park model" means a recreational vehicle that is built on a single chassis mounted on wheels, that has a gross trailer area of not more than 400 square feet in the setup mode, and that bears a label, symbol, or other identifying mark indicating construction to nationally recognized standards ANSI 119.5.
- (24) "Person" means, for purposes of issuing a license, an individual, partnership, association, firm, company, corporation, municipality, county, town or state agency, whether tenant, owner, lessee or licensee, or the agent, heir, or assignee of any of these, as applicable.
- (25) "Petting zoo" means a collection of animals that can be touched or fed.
- (26) "Plumbing system" has the meaning given in s. SPS 381.01 (179).

Note: Section SPS 381.01 (179) reads: "Plumbing system" includes the water supply system, the drain system, the vent system, plumbing fixtures, plumbing appliances and plumbing appurtenances that serve a building, structure or premises.

(27) "Potable" has the meaning given in s. NR 812.07 (75).

Note: Section NR 812.07 (75) reads: "Potable" means water supplied for human consumption, sanitary use, or for the preparation of food or pharmaceutical products.

(28) "POWTS" or "private on-site wastewater treatment system" has the meaning given in s. 145.01 (12), Stats.

Note: Section 145.01 (12), Stats., reads: Private on-site wastewater treatment system. "Private on-site wastewater treatment system" means a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system approved by the department including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure. A private on-site wastewater treatment system may be owned by the property owner or by a special purpose district.

(29) "Private water system" has the meaning given in s. NR 812.07 (78).

Note: Section NR 812.07 (78) reads: "Private water system" means any water system supplying water that is not a public water system.

(30) "Public sewer" has the meaning given in s. SPS 381.01 (198).

Note: Section SPS 381.01 (198) reads: "Public sewer" means a sewer owned and controlled by a public authority.

(31) "Public water system" has the meaning given in s. NR 812.07 (80).

Note: Section NR 812.07 (80) reads: "Public water system" means a system for the provision to the public of piped water for human consumption if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days per year. A public water system is either a "community water system" or a "non-community water system." Such system includes:

- (a) Any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system, and
- (b) Any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system.
- (32) "Recreational vehicle" means a vehicle that has walls of rigid construction, does not exceed 45 feet in length, is designed to be towed upon a highway by a motor vehicle or has a motor of its own, and is equipped and used, or intended to be used, primarily for temporary or recreational human habitation. A recreational vehicle includes camping trailers, motor homes, and park models.
- (33) "Rustic campsite" means an individual campsite that is accessible only by canoe, boat, horse, walking, or a nonmotorized vehicle and for which there are no operator-provided campground attributes.

Note: DNR primitive and semi-primitive camping facilities as defined in s. NR 44.07 (6) (e) 2., are covered under an memorandum of understanding established between the department and the DNR.

- (34) "Sanitary dump station" means a department of safety and professional services approved facility that is designed to receive sewage and domestic wastewater from the holding tank or transfer tank of a recreational vehicle.
- (35) "Seasonal campsite" means a campsite in which the operator allows a camper to park a privately owned camping unit for 30 or more consecutive days.
- (36) "Special event campground" means a campground temporarily created to provide campsites in conjunction with a special event, such as a fair, rally, carnival, music festival, sporting event, community festival, or other similar event.

- (37) "Tourist rooming house" notwithstanding s. ATCP 72.03 (20), when used in connection with this chapter, means a lodging place other than a hotel or motel, that is more than 400 square feet, in which sleeping accommodations are offered for pay to a tourist or transient. A "tourist rooming house" does not include private boarding or rooming houses not accommodating a tourist or transient, or a bed and breakfast establishment regulated under ch. ATCP 73.
- (38) "Vault privy" has the meaning given in s. SPS 391.03 (9),

Note: Section SPS 391.03 (9) reads: "Vault privy" means an enclosed nonportable toilet into which nonwater-carried human wastes are deposited to a subsurface storage chamber that is watertight.

(39) "Water distribution system" has the meaning given in s. SPS 381.01 (280).

Note: Section SPS 381.01 (280) reads: "Water distribution system" means that portion of a water supply system from the building control valve to the connection of a fixture supply connector, plumbing fixture, plumbing appliance, water-using equipment or other piping systems to be served.

(40) "Water service" has the meaning given in s. SPS 381.01 (282).

Note: Section SPS 381.01 (282) reads: "Water service" means that portion of a water supply system from the water main or private water supply to the building control valve.

(41) "Water system" has the meaning given in s. NR 812.07 (118).

Note: Section NR 812.07 (118), reads: Water system" means the water supply, storage, treatment facilities and all structures and piping by which water is provided for any purpose.

(42) "Yurt" means a round domed structure constructed of wood and fabric.

History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; correction in (30) made under s. 13.92 (4) (b) 7., Stats., Register January 2016 No. 721; renum. from DHS 178.03 Register June 2016 No. 726; correction in (1), (37) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726; correction in (10) made under s. 13.92 (4) (b) 6., Stats., Register June 2016 No. 726; correction in (28), (33) made under s. 35.17, Stats., Register June 2016 No. 726; CR 18-019: am. (1), (24) Register January 2020 No. 769, eff. 2-1-20.

ATCP 79.04 Plans and specifications for campgrounds.

- (1) APPROVAL REQUIRED.
 - (a) Except as specified in par. (b) an operator shall obtain plan approval from the department or its agent before any one of the following occurs:
 - 1. The operator begins construction of a campground.
 - 2. The operator modifies or increases the number or type of any campground attribute that was subject to a previous plan review by the department or its agent.
 - (b) An operator-provided camping unit that meets s. ATCP 79.13 (3) or that has been approved by the department or its agent under sub. (2) and s. ATCP 79.13 (3), may be placed or relocated on any approved campsite.

Note: In addition to meeting the department's plan review requirements, a person should consult with other agencies that may also require prior plan or construction approval, such as the department of safety and professional services, the department of natural resources, or the local building and zoning agency before commencing construction or modification of a campground.

- (2) APPLICATION FOR PLAN APPROVAL.
 - (a) An applicant for plan approval shall submit all of the following to the department or its agent:
 - 1. A fully and accurately completed, signed, and dated application for plan approval on a form provided by the department.
 - 2. A copy of the plans and specifications drawn to scale or a drawing indicating distance of separation measured in feet in accordance with the applicable requirements of this chapter.
 - 3. Any other information required by the department or its agent regarding the operation of the campground as it relates to the health, safety, and welfare of the public.

Note: To obtain a copy of the plan approval application form, e-mail datcpdfrsrec@wisconsin.gov or contact the Bureau of Food and Recreational Businesses at (608) 224-4702 or PO Box 8911, Madison, Wisconsin 53708-8911.

(b)

- 1. If the department or its agent receives a plan or application that is not completed as specified in par.

 (a) 1. and 2., the department shall contact the operator to seek additional information.
- 2. Within 30 days after receipt of any additional information requested under subd. 1., the department or its agent shall approve or deny the plan. If the department or its agent approves the plan, the department or its agent shall issue a plan approval letter to the operator. If the department or it agent denies a plan, the applicant shall be given the reason, in writing, for the denial. The

applicant may appeal the decision made by the department under s. ATCP 79.09. If the decision was made by a department's agent, the applicant may appeal the decision under s. ATCP 79.10.

History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; correction in (2) (b) 2. made under s. 35.17, Stats., Register October 2015 No. 718; renum. from DHS 178.04 Register June 2016 No. 726; correction in (1) (b), (2) (b) 2. made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726.

ATCP 79.05 License to operate a campground.

- (1) LICENSE REQUIRED.
 - (a) Conditions requiring a license. No person may operate a campground without a license from the department or its agent if any one of the following applies:
 - 1. A person offers or intends to offer 3 or fewer campsites and advertises or otherwise presents to the public an offer of the campground or specific campsites.
 - 2. A person offers or intends to offer 4 or more campsites, regardless whether the person advertises or otherwise presents to the public an offer of the campground or specific campsites.
 - Note: Pursuant to s. 97.67 (1g), Stats., a campground license is not required for camping at a county or district fair at which 4-H Club members exhibit, for the 4 days preceding the fair, the duration of the fair, and the 4 days following the fair.

3.

- a. Except as provided under subd. 3. b., if a license holder sells or otherwise transfers ownership or operation of a campground to another person, a new license is required under s. 97.67 (2) (a), Stats., and the campground may not be opened to the public until the department or its agent has issued a new license.
- b. As provided in s. 97.67 (2) (b) and (c), Stats., an individual may transfer a license to an immediate family member, if the individual is transferring operation of the campground. A sole proprietorship that reorganizes as a business entity, as defined in s. 179.70 (1), Stats., or a business entity that reorganizes as a sole proprietorship or a different type of business entity may transfer a license to the newly formed business entity or sole proprietorship if the campground remains at the location for which the license was issued and at least one individual who had an ownership interest in the sole proprietorship or business entity to which the license was issued has an ownership interest in the newly formed sole proprietorship or business entity.
- c. Except as provided in this paragraph, no license issued under this chapter is transferable from one premise to another or from one person or entity to another.
- **d.** A person who wishes to transfer a license under subd. 3. a. or b. shall notify the department or its agent prior to operation of the campground.
 - Note: Under s. 97.605 (4) (a) 2., Stats., "Immediate family member" means a spouse, grandparent, parent, sibling, child, stepchild, or grandchild or the spouse of a grandparent, parent, sibling, child, stepchild, or grandchild. Under ss. 97.605 (4) (a) 1. and 179.70 (1), Stats., "business entity" means: a corporation, as defined in s. 180.0103 (5), Stats., a limited liability company, as defined in s. 183.0102 (10), Stats., a limited partnership, or a corporation, as defined in s. 181.0103 (5), Stats., a foreign limited liability company, as defined in s. 183.0102 (8), Stats., a foreign limited partnership, a foreign corporation, as defined in s. 180.0103 (9), Stats., or a foreign corporation, as defined in s. 181.0103 (13), Stats.
 - Note: To notify the department of a transfer of ownership, call (608) 224-4923 or send an e-mail to datcpdfslicensing@wi.gov.
- (b) Conditions requiring multiple licenses. If 2 or more campgrounds are located within a tract of land owned by the person who owns or operates both campgrounds and the central registration location of each campground is separated by 5 or more miles, a separate license is required for each campground.
- (c) Preinspection required. Before the department or its agent may issue a license to operate a campground under par. (a) or (b), the department or agent shall conduct a preinspection. A preinspection is not required for a transfer to an immediate family member under par. (a) 3. b.
 - Note: Pursuant to 97.67 (1m), Stats., the department or a local health department granted agent status under s. 97.615 (2), Stats., may not, without a preinspection, grant a license to a person intending to operate a new public campground or to a person intending to be the new operator of an existing campground.
- (2) LICENSE DURATION AND RENEWAL.
 - (a) Expiration. Each license issued under this chapter expires on June 30, except that a license initially issued during the period beginning on April 1 and ending on June 30, expires on June 30 of the following year.

- (b) Annual renewal. Each license shall be renewed annually as provided in sub. (4).
- (3) New License.
 - (a) Application. To apply for a new license, the applicant shall apply on an application form provided by the department or its agent. The completed application shall be accompanied by all of the following:
 - 1. The applicable fees specified under s. ATCP 79.06 and any fees previously due to the department or its agent under this chapter.
 - 2. Information, as determined by the department or its agent, including documentation that the campground will be maintained and operated in compliance with this chapter, applicable federal and state laws, as it relates to the health, safety, and welfare of the public.
 - Note: As provided under s. 97.615 (2) (d), Stats., a local health department can establish and collect fees for licenses. If you were issued a license by a local health department, contact the local health department for its license fee schedule.
 - (b) Requests for preinspection. The operator shall contact the department or its agent and arrange a time for the preinspection required under s. ATCP 79.05 (1) (c), before operating a campground.
 - Note: To obtain a copy a copy of the campground operator license application form, or to arrange for a preinspection, call (608) 224-4923 or send an e-mail to datcpdfslicensing@wi.gov.
- (4) LICENSE RENEWAL.
 - (a) To renew a license, the operator shall pay the department the applicable license fee specified under s. ATCP 79.06 before the license expires. If payment to renew a license fee is not received by the department before the expiration date of the license, the late fee specified under s. ATCP 79.06 (2)
 (c) shall be paid in addition to the license fee. An application for a renewal license is not required.

(b)

- 1. The department may refuse to renew a license as provided under sub. (5) (a) 1.
- 2. The department shall refuse to renew a license as provided under sub. (5) (b).
- (5) DEPARTMENT OR AGENT ACTION ON A LICENSE APPLICATION.
 - (a) Department decision on a license.
 - 1. The department or its agent may not issue a new license or renew an existing license for a campground unless all of the following conditions are met:
 - a. The operator has corrected a condition for which the department or agent has issued a written health or safety-related order.
 - b. The operator, applicant, or license holder has provided the department or its agent with the information required under sub. (3) (a) 2., or documentation indicating that the campground is designed and constructed in accordance with the state law and regulations stated in this chapter.
 - c. The department or its agent has determined that the operator, applicant or license holder is not in violation of ch. 97, Stats., or has only a minor violation as defined in s. 227.04 (1) (a).
 - **(b)** License prohibited. The department or its agent shall refuse to issue a new license or renew an existing license to operate a campground under any of the following circumstances:
 - 1. A fully and accurately completed, signed and dated application has not been received by the department or its agent.
 - 2. The department or its agent has not conducted the preinspection required under s. ATCP 79.05 (1) (c).
 - 3. The department or its agent has not approved the plan for the campground under s. ATCP 79.04.
 - 4. The operator has not paid all of the applicable fees under s. ATCP 79.06.
 - 5. The operator has modified, repaired, or maintained the campground in a manner that is not in accordance with what the department recognizes as safe practice as outlined in this chapter.
 - (c) Conditional license. Except as provided in s. 93.135, Stats., the initial issuance, renewal, or continued validity of a license may be conditioned upon the requirement that the license holder correct a violation of this chapter, s. 97.67, Stats., or ordinances adopted under s. 97.615 (2) (g), Stats., within a specified period of time. If the condition is not satisfied within the specified time or after an extension of time approved by the department, the license is void. No person may operate a campground after a license has been voided. Any person who does so shall be subject to the penalties under ss. 97.72 and 97.73, Stats., and fees under s. ATCP 79.06 (2) (e). An operator whose license is voided under this paragraph may appeal the decision under s. ATCP 79.09.
 - (d) Granting or denial of a license.

- 1. The department or its agent shall issue or deny a new license or shall renew a license for a campground within 30 days after the applicant meets all of the requirements under subs. (3) or (4), as applicable.
- 2. If the department or its agent denies an application for a license, the applicant shall be given reasons, in writing, for the denial and information regarding appeal rights provided under s. ATCP 79.09.
- (6) VOIDED LICENSE FOR FAILURE TO PAY FEES.
 - (a) Payment time frame. If an applicant or operator fails to pay all applicable fees, late fees, and processing charges under s. ATCP 79.06, within 45 days after the expiration of the license, the license is void.
 - (b) Notice of insufficiency. If the department receives a notice of an insufficiency under s. ATCP 79.06 (3), the applicant or operator shall have 15 days after receipt of notice from the department of the insufficiency to pay all applicable fees and processing charges or the license is void.
 - (c) Appeal rights. An operator whose license is voided under this subsection may appeal the decision as provided under s. ATCP 79.09. The burden is on the license applicant or operator to show that all applicable fees, late fees and processing charges have been paid. During any appeal process concerning a payment dispute, operation of the campground is deemed to be operation without a license and is subject to the fees under s. ATCP 79.06 (2) (e) in addition to the fees otherwise due, unless the applicant or operator meets its burden of proof under this subsection.
- (7) LICENSE POSTING. A current license issued by the department shall be posted in a place visible to the public. A license may not be altered or defaced.

History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; correction in (1) (a) 3. a., d. made under s. 13.92, (4) (b) 7., Stats., correction in (5) (b) 1., (d) made under s. 35.17, Stats., Register October 2015 No. 718; renum. from DHS 178.05 Register June 2016 No. 726; correction in (1) (a) 3. a., b., (3) (b), (4) (a), (5) (a) 1. c., (c), (d) 2., (6) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726; correction in (5) (c) made under s. 13.92 (4) (b) 7., Stats., Register January 2017 No. 733; CR 18-019: am. (title), (1) (title), (a) (intro.), 3., (b), (c), (2), (3) (title), (a) (intro.), (4), (5) (title), (a) (title), 1. (intro.), b., c., (b) (intro.), (c), (d), (6), (7) Register January 2020 No. 769, eff. 2-1-20.

ATCP 79.06 Department fees.

(1) FEB SCHEDULE. Pursuant to s. 97.67 (5), Stats., no license may be issued until all applicable fees have been paid. Table ATCP 79.06 applies to campground licenses issued by the department under this chapter.

Note: As provided in s. 97.615 (2) (d), Stats., a local health department can establish and collect fees for license. If you were issued a license by a local health department, contact the local health department for its license fee schedule.

- (2) Types of fees.
 - (a) Preinspection fee. The operator shall pay the applicable preinspection fee listed in Table ATCP 79.06 to the department before a new license is issued under s. ATCP 79.05 (3).
 - **(b)** License fee. The operator shall pay the applicable license fee listed in Table ATCP 79.06 to the department for each campground for which the operator applies for a new or renewal license.
 - (c) Late fee. If the license fee for a license renewal is not paid before the expiration date of the license, the operator shall pay to the department a late fee of \$85.00 in addition to the renewal license fee.
 - (d) Reinspection fee. If the department conducts a reinspection of a campground under s. ATCP 79.07 (1) (b) 1. or 4., the operator shall pay to the department the applicable reinspection fee listed in Table ATCP 79.06. The department shall assess an additional fee as listed in Table ATCP 79.06, for any second or subsequent reinspection conducted under s. ATCP 79.07 (1) (b) 4.
 - (e) Fees for operating without a license. If a campground is found to be operating without a license, the operator shall pay to the department a fee of \$749.00, in addition to all applicable fees and any processing charges under sub. (3).

Note: Anyone operating a campground without a license is also subject to the penalties in ss. 97.72 and 97.73, Stats.

- (f) Duplicate license. If an operator requests a duplicate license, the operator shall pay the department a fee of \$15.00.
- (g) Fees for special condition inspections. For inspection or consultation activities that are not directly related to the department's responsibilities for issuing licenses, the department shall charge the operator or the entity requesting the inspection or consultation \$175.00.
- (3) PENALTIES FOR INSUFFICIENCY OF PAYMENT. If the payment for a new or renewal license is by check other draft drawn upon an account containing insufficient funds, the applicant or operator shall, with

15 days after receipt of notice from the department of the insufficiency, pay all applicable fees under sub. (1) and the financial institution's processing charges by cashier's check or other certified draft, money order, or cash.

Table ATCP 79.06 Fee Schedule - See PDF for table

Note: A tourist rooming house is not counted as a campsite.

History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DHS 178.06 Register June 2016 No. 726; correction in (1), (2) (a), (b), (d) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726; CR 18-019: am. (1), (2) (a) to (c), (e) to (g), (3) Register January 2020 No. 769, eff. 2-1-20.

ATCP 79.07 Enforcement.

- (1) INSPECTIONS AND ACCESS TO THE PREMISES.
 - (a) *Inspections*. Under ss. 97.615 (2) and 97.65 (1), Stats., an authorized employee or agent of the department, upon presenting proper identification, may enter any campground at any reasonable time, for any of the following purposes:
 - 1. To inspect the campground.
 - 2. To determine if there has been a violation of this chapter or s. 97.67, Stats.
 - 3. To determine compliance with previously written orders to correct violations.
 - 4. To secure samples or specimens.
 - 5. To examine and copy relevant documents and records related to the operation of the campground.
 - 6. To obtain photographic or other evidence needed to enforce this chapter.
 - (b) Reinspections.
 - 1. The department or its agent may reinspect a campground whenever an inspection or the investigation of a complaint reveals the existence of a violation that is potentially hazardous to the health and welfare of patrons or employees of the campground.
 - 2. A reinspection shall be scheduled to allow the operator a reasonably sufficient time to correct the deficiencies.
 - 3. A reinspection fee shall be charged for the reinspection based on Table ATCP 79.06 or applicable charges determined by an agent of the department.
 - 4. If an additional reinspection is required because a violation has not been corrected in the scheduled time, the department shall assess a second or subsequent reinspection fee based on Table ATCP 79.06 as authorized under s. ATCP 79.06 (2) (d), and the department may order the operator to show just cause why the license should not be suspended or revoked under s. ATCP 79.08.
- (2) GENERAL ORDERS TO CORRECT VIOLATIONS,
 - (a) Written orders. If upon inspection of a campground, the department or agent finds that the campground is not designed, constructed, equipped or operated as required under this chapter, the department or agent shall issue a written order to correct the violation. The order shall specify the correction needed for compliance and the time period within which the correction should be made. The time period specified in the order may be extended at the discretion of the department or agent as specified in par. (c).
 - **(b)** Failure to correct a violation.
 - 1. If a violation is not corrected by the expiration of the time period stated in the order given under par. (a), or any extension of time granted under par. (c), the department or agent may issue an order under s. ATCP 79.08 to suspend or revoke the license to operate the campground. An order for suspension or revocation shall take effect as provided under s. ATCP 79.08.
 - 2. Under s. 97.12 (5), any person who fails to comply with an order of the department shall forfeit \$10 for each day of noncompliance after the order is served upon or directed to him or her. A person may appeal a forfeiture under s. ATCP 79.09.
 - (c) Requests for an extension to correct a violation.
 - 1. The department or its agent may extend the time to correct a violation based on a determination of the seriousness of the violation, the operator's progress towards correcting the violation, and the operator's previous history of compliance.
 - 2. To request an extension to correct a violation, the operator shall submit a written request to the department or agent before the time specified in the written order to correct the violation. The

operator shall provide information that demonstrates to the department or its agent that corrective action has been initiated, but additional time is needed to fully correct the violation.

- (3) Temporary orders.
 - (a) Conditions for a temporary order. As provided in s. 97.65 (2) (a), Stats., whenever, as a result of an inspection under sub. (1), the department or its agent has reasonable cause to believe that an immediate danger to health or safety exists, the department or its agent may issue a temporary order without advance notice or hearing to do any of the following:
 - 1. Prohibit the continued operation or method of operation of specific equipment.
 - 2. Require that the premises or affected areas within the premises to cease operations and close until remedies are applied that eliminate the immediate danger to health or safety.
 - **(b)** Duration of a temporary order; actions prohibited.
 - 1. A temporary order shall take effect upon delivery of the order to the operator or responsible supervisor. Except as provided in par. (c), the temporary order shall remain in effect for 14 days from the date of its delivery, but a temporary order may be reissued for one additional 14-day period if necessary to complete any analysis or examination of samples, specimens, or other evidence.
 - 2. No operation or method of operation prohibited by the temporary order may be resumed without the approval of the department or agent until the order has terminated or the time period specified in subd. 1. has expired, whichever occurs first, unless as provided under par. (c), the department or its agent provides notice that an immediate danger to health or safety is present. If upon completed analysis or examination, the department or agent determines that construction, sanitary condition, operation or method of operation of the premises or equipment does not constitute an immediate danger to health or safety, the department or agent shall immediately notify the owner, operator or responsible supervisor in writing and the temporary order shall terminate upon receipt of the written notice.
 - (c) Notice of findings upon analysis or examination. If the analysis or examination under sub. (1), shows that the construction, sanitary condition, operation or method of operation of the premises or equipment constitutes an immediate danger to health or safety, the department or agent, within the effective period of the temporary order specified in par. (b) 1., shall provide written notice of the findings to the owner, operator or responsible supervisor. Upon receipt of the notice, the temporary order remains in effect until a final decision is issued under s. ATCP 79.09. The notice shall include a statement that the facility has a right to request a hearing under s. ATCP 79.09 within 15 days after issuance of the notice.
 - (d) Failure to comply with temporary order; forfeitures and penalties. Any person who fails to comply with a temporary order issued by the department shall forfeit \$10 for each day of noncompliance after the order is served upon or directed to him or her and, under s. 97.65 (5) (a), Stats., may be fined not more than \$10,000 or imprisoned not more than one year in the county jail, or both. A person may appeal a forfeiture under s. ATCP 79.09.
- (4) ACTION PLANS.
 - (a) When required by the department, its agent, or this chapter, the operator and the department or its agent shall develop, on a form provided by the department, an action plan for compliance. The action plan shall include all of the following:
 - 1. A description of the violation and code citation.
 - 2. The steps the operator will take to correct the violation.
 - 3. The date compliance will be achieved.
 - (b) The department or its agent shall void the campground license under s. ATCP 79.05 (5) (b), if the operator continues to be out of compliance or fails to meet the objectives outlined in the action plan past the date provided in the action plan.

History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; correction of numbering in (1) (a) made under s. 13.92 (4) (b) 1., Stats., Register October 2015 No. 718; renum. from DHS 178.07 Register June 2016 No. 726; correction in (1) (a) (intro.), 2., (b) 3., 4., (2) (b), (3) (intro.), (c), (d), (4) (b) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726; CR 18-019: am. (x) Register January 2020 No. 769, eff. 2-1-20; CR 18-019: am. (1) (b) 4., (2) (b) 1., (4) (b) Register January 2020 No. 769, eff. 2-1-20.

ATCP 79.08 Suspension or revocation of license. The department may, after a hearing under s. ATCP 79.09, suspend or revoke a license for violation of s. 97.67, Stats., this chapter or an order issued

by the department. The suspension or revocation order shall take effect 15 days after the date of issuance unless a hearing is requested under s. ATCP 79.09 (1).

History: CR 15-001; cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DHS 178.08 Register June 2016 No. 726; correction made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726; CR 18-019; am. Register January 2020 No. 769, eff. 2-1-20.

ATCP 79.09 Appeals of actions by the department.

(1)

- (a) Except as provided in sub. (2) or (3), a request for a hearing to contest the denial of a license, a voided license, suspension, revocation, forfeiture, or the issuance of an order under s. ATCP 79.07
 (2) shall be submitted in writing to, and be received by, the department of administration's division of hearings and appeals within 15 calendar days after the date of the department's action.
- (b) A request for hearing that is mailed to the division of hearings and appeals shall be considered filed with the division on the date of the postmark.
- (c) A request for hearing that is hand-delivered to the division of hearings and appeals shall be considered filed on the date the request is received by the division of hearings and appeals.
- (d) A request for hearing transmitted by facsimile to the division of hearings and appeals shall be considered filed on the date and time imprinted by the division's facsimile machine on the transaction report that accompanies the document. Documents received by facsimile after midnight local time shall be deemed filed on the first following business day.
 - Note: Effective 7-1-16, pursuant to 2015 Wis. Act 55 and s. 227.43(1m), Stats., a request for hearing shall be submitted to the DATCP Secretary via e-mail at datepappeals@wisconsin.gov, faxed to (608) 224-5034, mailed to PO Box 8911, Madison, Wisconsin 53708-8911, or hand delivered to 2811 Agriculture Drive, Madison, Wisconsin 53718.
- (e) As a condition for requesting a hearing to appeal the voiding of a license, an applicant or operator shall comply with sub. (3). In an appeal concerning voiding a license, the burden is on the applicant or operator to show that all the applicable fees, late fees and processing charges have been paid.
- (2) A request for hearing to contest a temporary order given by the department under s. ATCP 79.07 (3) shall be made in writing to the department within 15 days of receipt of the order. The department shall hold a hearing within 15 days after the department receives the written request for hearing, unless the department and the operator agree to a later date, the immediate danger to health is removed, the order is not contested or the operator and the department mutually agree that no purpose would be served by a hearing. A final decision shall be issued under s. 227.47, Stats., within 10 days following the conclusion of the hearing. The decision may order any of the following to remove the danger to health:
 - (a) Changes to or replacement of equipment or construction.
 - (b) Changes in or cessations of any operation or method of operation of the equipment or premises.
 - Note: A request for hearing, under sub. (2), shall be submitted to the DATCP Secretary via e-mail at datcpappeals@wisconsin.gov, faxed to (608) 224-5034, mailed to PO Box 8911, Madison, Wisconsin 53708-8911, or hand delivered to 2811 Agriculture Drive, Madison, Wisconsin 53718. The hearing may be conducted by the department secretary or designee.
- (3) If the department voids a license for failure to pay fees under s. ATCP 79.05 (6), the operator shall submit, within 15 days after receipt of the notice of the department's action, documentary evidence that all applicable fees, late fees and processing charges have been paid and that there are no outstanding payments due to the department.

History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DHS 178.09 Register June 2016 No. 726; correction in (1) (a), (2) (intro.), (3) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726; CR 18-019: am. (1) (a), (e), (3) Register January 2020 No. 769, eff. 2-1-20.

ATCP 79.10 Appeals of actions by agent health departments. If an agent issues a license under this chapter, the operator shall appeal enforcement action to the agent health department.

History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DHS 178.10 Register June 2016 No. 726; CR 18-019: am. Register January 2020 No. 769, eff. 2-1-20.

ATCP 79.11 Campsite use, designation, location, and density.

- (1) CAMPSITE USE. No operator may allow a campsite to be occupied by the same individual for more than 8 continuous months in any 12 month period.
- (2) CAMPSITE DESIGNATION. The operator shall clearly mark each campsite with an alpha or numeric symbol that is a minimum of 2 inches in height and visible from the campground's internal road

- system. This rule first applies to an existing campground symbol when the symbol is changed or replaced on or after February 1, 2016.
- (3) CAMPGROUND MAP. The operator shall maintain a current and accurate map of the campground. The map shall the show the layout and location of each campsite and operator-provided camping unit or tourist rooming house. The operator shall make the map available to all campground occupants during registration or on request.
- (4) CAMPSITE LOCATION.
 - (a) *Hazards*. A campsite may not be located in an area of a campground that is subject to the accumulation of water or in any other area that would constitute a health or safety hazard.

Note: The location of campsites and campground attributes in a flood plain or shore land area must be approved by local zoning or the DNR. See ch. NR 115 and s. NR 116.12 (2) (b) as enforced by the department of natural resources. Contact your local DNR office or local zoning office for more information.

- (b) Sources of odor or flies.
 - 1. A campsite may not be located within 100 feet of a barn or enclosure housing an animal, a petting zoo, or other source of odors or flies. This paragraph first applies to campsites created after February 1, 2016.
 - 2. This provision does not apply to dogs and cats in individual campsites or for other animals as approved by a variance under s. ATCP 79.02 (2).
- (5) CAMPGROUND DENSITY. Except as provided under s. ATCP 79.27, the operator shall ensure that the density of the campground is as follows:
 - (a) *Individual campsites*. An operator may designate no more than 20 individual campsites per acre of campground. Each campsite is limited to 6 campers or an individual family.
 - (b) Group campsites. An operator may allow no more than 80 campers per acre in a group campsite.

 History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DHS 178.11 Register June 2016 No. 726; correction in (4) (b) 2., (5) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726.

ATCP 79.12 Campground access and road systems.

- (1) Access. Access to a campground shall be designed to minimize congestion and hazards at the entrance and exit.
- (2) ROADWAYS. All roads within the campground shall be graded and maintained to provide drainage.

 History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DHS 178.12 Register June 2016 No. 726.

ATCP 79.13 Camping units.

- (1) DISTANCE SEPARATION REQUIREMENTS.
 - (a) Distance requirement.
 - 1. The operator shall require a minimum distance of 10 feet between camping units measured from the outside edge of one camping unit to the outside edge of another camping unit, excluding slideouts.
 - 2. Except as provided in par. (b), any accessory within 10 feet of a camping unit such as, but not limited to, a deck or storage shed shall be considered part of the camping unit for the purposes of determining distance separation.
 - 3. Except as provided in par. (b), or unless otherwise specified in this chapter, a campground building other than a camping unit shall be a minimum of 10 feet away from a camping unit.
 - **(b)** Exceptions for existing campsites.
 - 1. A campsite existing before February 1, 2016 shall meet the requirements in par. (a) 1., and is exempt from the requirements in par. (a) 2. and 3.
 - 2. If a campsite existing before February 1, 2016 is not in compliance with the separation requirements under par. (a) 1., the operator shall develop an action plan in accordance with s. ATCP 79.07 (4) and implement the plan to bring the campsite into compliance.
- (2) CAMPING UNITS; SEASONAL CAMPSITES. The operator shall ensure all of the following at a seasonal campsite:
 - (a) Recreational vehicles.

1.

- a. Each privately owned recreational vehicle in the seasonal campsite bears a label, symbol, or other identifying mark of a nationally recognized testing laboratory, inspection agency, or other organization, which evaluates products to nationally recognized standards NFPA 1192 or ANSI 119.5, and periodically inspects production of equipment and materials to show compliance with those standards for usage in a specified manner.
- b. Each privately owned recreational vehicle in the seasonal campsite that does not meet the requirements in this subdivision shall be removed from the campground when the owner vacates the recreational vehicle or the recreational vehicle is sold.
 - Note: Examples of nationally recognized testing agencies include the Recreational Vehicle Industry Association (RVIA) and the Recreational Park Trailer Industry Association (RPTIA).
- 2. Each recreational vehicle in the seasonal campsite with an addition or attachment, whether used for habitation or means of ingress or egress, is maintained and equipped in a manner that protects the health and safety of campers in accordance with chs. SPS 320 to 325. The department or its agent may refer health and safety related construction concerns to the local zoning department or the department of safety and professional services.
 - Note: Additions or attachments, whether used for habitation or a means of ingress and egress onto recreational vehicles may require a local land use permit and building construction permit along with a required construction inspection. Consult with local zoning and building officials concerning land use permits, construction permits and construction inspections.
- 3. The chassis and axles remain on the recreational vehicle with the towbar or hitch and wheels left at the campsite.
- (b) Camping cabins. Each camping cabin in the seasonal campsite and any addition or attachment to a camping cabin, whether used for habitation or means of ingress or egress, shall be maintained and equipped in a manner that protects the health and safety of camper in accordance with ch. SPS 327. Camping cabins may not be more than 400 square feet in area. The department or its agent may refer health and safety related construction concerns to the local zoning department or the department of safety and professional services.
- (c) Camping unit storage. A camping unit located on a seasonal campsite may be stored on the campsite during periods when the unit is not occupied or when the campground is not in operation.
 - Note: Camping cabins and additions or attachments to camping cabins, whether used for habitation or a means of ingress and egress may require a local land use permit and building construction permit along with a required construction inspection. Consult with local zoning and building officials concerning land use permits, construction permits and construction inspections.
- (3) OPERATOR-PROVIDED CAMPING UNITS; RENTALS.
 - (a) Size.
 - 1. Operator-provided camping units may not be more than 400 square feet in area, except for a mobile home or manufactured home. The area limitation does not include decks and three-season porches not used for overnight sleeping accommodations.
 - 2. The campground operator shall obtain a license for a tourist rooming house and comply with the requirements of ch. ATCP 72 for an operator-provided camping unit that is more than 400 square feet in area, except for a tent, mobile home, manufactured home, or recreational vehicle.
 - (b) Maintenance. The operator shall maintain an operator-provided camping unit in good repair and in clean and sanitary condition.
 - (c) Recreational vehicles. The operator shall ensure all of the following for each operator-provided recreational vehicle:
 - 1. The recreational vehicle bears a label, symbol, or other identifying mark of a nationally recognized testing laboratory, inspection agency, or other organization, which evaluates products to nationally recognized standards NFPA 1192 or ANSI 119.5, and periodically inspects production of equipment and materials to show compliance with those standards for usage in a specified manner. The department may accept other documentation from a licensed architect or engineer showing compliance with NFPA 1192 or ANSI 119.5.
 - Note: Examples of nationally recognized testing agencies include the Recreational Vehicle Industry Association (RVIA) and the Recreational Park Trailer Industry Association (RPTIA).
 - 2. Any addition or attachment to a recreational vehicle, whether used for habitation or means of ingress or egress, is maintained in accordance with chs. SPS 320 to 325. The department or its agent may refer health and safety related construction concerns to the local zoning department or the department of safety and professional services.

- Note: An addition or attachment to a recreational vehicle, whether used for habitation or a means of ingress and egress may require a local land use permit and building construction permit along with a required construction inspection. Consult with local zoning and building officials concerning land use permits, construction permits and construction inspections.
- 3. At the installation site, the chassis and axles remain on the recreational vehicle with the towbar or hitch and wheels left at the campsite.
 - Note: The department of safety and professional services may determine that a recreational vehicle without chassis and axles must comply with the uniform dwelling code under chs. SPS 320 to 325.
- 4. If a recreational vehicle does not meet the requirements in par. (c) 1., the operator shall develop and implement an action plan in accordance with s. ATCP 79.07 (4) to replace or remove the recreational vehicle from the campground.
- (d) Camping cabins; building code requirements. Each operator-provided camping cabin and any addition or attachment to a camping cabin, whether used for habitation or means of ingress or egress, shall be maintained in accordance with ch. SPS 327. The department or its agent may refer health and safety related construction concerns to the local zoning department or the department of safety and professional services.
 - Note: Camping cabins and additions or attachments to camping cabins, whether used for habitation or a means of ingress and egress may require a local land use permit and building construction permit along with a required construction inspection. Consult with local zoning and building officials concerning land use permits, construction permits and construction inspections.
- (4) SMOKE DETECTION. At least one approved UL listed and labeled smoke detector shall be installed and maintained according to the manufacturer's recommendation, in each operator-provided camping unit.
- (5) CARBON MONOXIDE DETECTORS.
 - (a) Definitions. In this subsection, a "fuel-burning appliance" has the meaning given in s. ATCP 72.145 (2) (b).
 - Note: Section ATCP 72.145 (2) (b) reads: "Fuel-burning appliance" means a device that is used or intended to be used in a residential building and burns fossil fuel or carbon based fuel where carbon monoxide is a combustion by-product. "Fuel-burning appliance" includes stoves, ovens, grills, clothes dryers, furnaces, boilers, water heaters, heaters, and fireplaces.
 - (b) Installation and maintenance. If an operator-provided camping unit is equipped with a fuel-burning appliance, at least one approved UL listed and labeled carbon monoxide detector shall be installed and maintained in the camping unit according to manufacturer's recommendations as provided in s. 101.149 (2) and (3), Stats.
 - **Note:** Fuel-burning appliances should be installed according to the manufacturer's instructions and the applicable heating and ventilation code as enforced by the department of safety and professional services. Special care should be taken to assure proper venting and combustion air requirements are met.
- (6) FURNISHINGS. All furnishings and appliances in an operator-provided camping unit shall be maintained clean and in a good repair.
- (7) FOOD AND BEVERAGE UTENSIL SANITATION.
 - (a) Equipment required. If an operator-provided camping unit is supplied with multiuse food and beverage utensils, the operator shall equip the camping unit with, at minimum, a two-compartment sink supplied with water under pressure to clean the utensils. This rule first applies to an operator-provided camping unit that is remodeled or placed in the campground after February 1, 2016.
 - (b) Cleaning and sanitation requirements. The operator shall wash and sanitize multiuse food and beverage utensils between occupancies or provide a sign posted in public view with the following message: "Food and beverage utensils have been provided in this camping unit as a guest convenience. They have not been sanitized. It is recommended that you wash with a detergent, rinse with clean water and sanitize utensils before their use. To sanitize, after rinsing, add 1 teaspoon of unscented bleach per gallon of clean water and immerse utensils for a minimum of 30 seconds, then air dry".
 - (c) Maintenance requirements. The sink and all utensils shall be maintained in good repair and constructed of approved materials.
- (8) BUNK BEDS. If a bunk bed is provided in an operator-provided camping unit, the operator shall ensure that the bunk bed meets all of the following requirements:
 - (a) Separation. No more than 2 beds may be stacked vertically. There shall be a vertical separation of at least 2.5 feet measured from the top of the lower mattress to the bottom of the frame of the upper bed. A free space of at least 2.5 feet shall be provided above the mattress of the upper bed.

- (b) Construction and maintenance. A bunk bed constructed after June 19, 2001, shall meet the requirements for bunk beds under 16 CFR 1513.
- (c) Bunk bed mattresses. Bunk bed mattresses when purchased or replaced shall fit the dimensions of the bunk bed with no gaps between the interior bed structure and the mattress. Mattresses shall be maintained and be covered as required under sub. (10).
- (d) Location. Bunk beds shall be located away from potential hazards, including, but not limited to, heat sources, ceiling fans, or other ceiling protrusions.
- (9) LINENS.
 - (a) If provided, pillowslips, sheets, towels and washcloths shall be washed as frequently as they are assigned to a different guest and at least once a week.
 - (b) If provided, blankets, spreads, mattresses, and pillows shall be kept clean and free of insect infestation.
 - (c) Only quilts and comforters that are machine washable may be used.
 - (d) Clean and soiled linen shall be kept in separate nonabsorbent washable containers. The containers may not be used for any other purpose.
- (10) MATTRESSES.
 - (a) *Protection*. Each mattress or alternative sleeping surface, including, but not limited to, futons and sofa sleepers, shall be covered with a washable, nonabsorbent pad to protect the mattress or alternative sleeping surface.
 - (b) Maintenance. Each mattress, alternative sleeping surface, and pad shall be maintained clean and in good repair.
- (11) RENTED BEDDING. If the operator rents bedding such as sleeping bags and bed linens, the bedding shall be laundered between rentals.
- (12) LAUNDRY FACILITIES. If a laundry facility is provided, the washer and dryer shall be maintained in good repair.

History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; correction in (2) (a) 2., (b), (3) (a) 1., (c) 2., (d), (6) made under s. 35.17, Stats., Register October 2015 No. 718; renum. from DHS 178.13 Register June 2016 No. 726; correction in (1) (b) 2., (3) (a) 2., (c) 4., (5) (a) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726; CR 18-019: am. (2) (b), (3) (a) 2., (d) Register January 2020 No. 769, eff. 2-1-20; correction in (2) (b), (3) (d) made under s. 35.17, Stats., Register January 2020 No. 770, eff. 3-1-20.

ATCP 79.14 Water supply; water systems and service connections.

- (1) Water systems.
 - (a) The water system used to supply water to the campground may be a public water system or a private water system.
 - (b) The water system used to supply water to the campground shall be located within the campground and the operation, construction, installation, materials, and maintenance, shall comply with ch. NR 812 as enforced by the department of natural resources.
- (2) POTABLE WATER SUPPLY.
 - (a) A campground shall be supplied with potable water that meets the drinking water standards in ch. NR 809.
 - (b) The operator shall provide a copy of the water system bacteriological analysis for total coliform report to the department or its agent for each water system, public or private, that supplies water to the campground. If the campground operates seasonally, the operator shall provide the report to the department or its agent before the season begins. If the campground is operated year round, the operator shall provide the report to the department or its agent annually.

Note: Public water systems may require additional water testing as required by the department of natural resources in ch. NR 809.

(c)

- 1. The operator shall discontinue use of a public or private water system used to supply water to the campground, whenever the potable water from the system does not meet bacteriologically safe drinking water standards in ch. NR 809.
- 2. If the operator discontinues use of the campground's water system, the operator shall supply potable water to the campground from a source and in a manner approved by the department until the

operator submits documentation to the department or its agent that the water supplied by the water system meets the bacteriologically safe drinking water standards in ch. NR 809.

Note: Bottles for collection of water samples may be obtained by writing to the State Laboratory of Hygiene, 2601 Agriculture Drive, Madison, WI 53708 or by calling 800-442-4618. Use of any private or public certified laboratory is acceptable to satisfy the requirement.

- (3) STAND ALONE OUTLETS. The operator shall provide a stand-alone outlet that supplies potable water under pressure within 400 feet walking distance from each campsite. No stand-alone outlet for potable water may be located fewer than 50 feet from the outside edge of a sanitary dump station apron unless an alternative is approved by the department under s. ATCP 79.02 (2). For campgrounds or campsites constructed before September 1, 1992, the water supply outlets shall meet the requirements by the rules in effect when the plans and specifications were approved.
- (4) WATER SERVICE CONNECTIONS.
 - (a) The plumbing system for the water service and water distribution system for a toilet building, shower building, privately owned camping unit, or operator-provided camping unit shall comply with chs. SPS 382 and 384 as enforced by the department of safety and professional services.
 - (b) Adequate provision shall be made to prevent freezing of service lines, valves or riser pipes.
 - (c) Water service connections shall be provided with approved backflow prevention devices.

History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DHS 178.14 Register June 2016 No. 726; correction in (3) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726.

ATCP 79.15 Sewage and wastewater treatment and handling.

- (1) POWTS.
 - (a) POWTS as an alternative to public sewer. If a public sewer is not available to the campground, the operator may use a POWTS to handle sewage and domestic wastewater for the campground. The location, design, construction, and operation of a POWTS shall comply with chs. SPS 382 to 385.

Note: See s. 145.195, Stats., for information regarding building on unsewered property.

Note: The department of safety and professional services or its designated agent under s. SPS 383.22 requires plan review and approval for installation, construction, replacement or addition to a POWTS before installation, construction or modification occurs. Local jurisdictions may require additional approvals.

- (b) POWTS failure. Any structure, campsite, or fixture served by a failed POWTS may not be used until any one of the following conditions is met:
 - 1. The operator provides documentation to the department or its agent that the POWTS is in compliance with chs. SPS 382 to 385.
 - 2. The operator has received approval of a plan for repair, remediation, or replacement of the POWTS from the department of safety and professional services or its designated agent and approval of a plan for wastewater removal and management if the operator intends to operate the POWTS until the POWTS has been fully repaired, remediated, or replaced with a POWT that is in compliance with chs. SPS 382 to 385.

Note: Pursuant to s. 145.245 (4), Stats., a failing private on-site wastewater treatment system is one which causes or results in any of the following conditions:

- (a) The discharge of sewage into surface water or groundwater.
- (b) The introduction of sewage into zones of saturation which adversely affects the operation of a private on-site wastewater treatment system.
- (c) The discharge of sewage to a drain tile or into zones of bedrock.
- (d) The discharge of sewage to the surface of the ground.
- (e) The failure to accept sewage discharges and back up of sewage into the structure served by the private on-site wastewater treatment system.
- (c) POWTS access covers. The operator shall ensure that access opening covers to a POWTS are locked or secured, except for inspection, evaluation, maintenance or servicing purposes.
- (2) SANITARY DUMP STATION.
 - (a) Number required. The operator shall provide a sanitary dump station in the ratio of 1 for every 300 independent campsites or fraction thereof that are not connected to a POWTS or municipal sewer system. The department may approve an alternate method of disposal under s. ATCP 79.02 (2) if all of the following conditions apply:
 - 1. There are 20 or fewer campsites designated for independent camping units.

- 2. The distance to the nearest sanitary dump station is 25 or fewer miles from the campground and is available during that campground season.
- 3. The operator has a written agreement that allows campers who stay at the campground to dispose of wastewater at the sanitary dump station identified in subd. 2., and provides a copy of the written agreement to the department or its agent.
 - Note: To obtain a copy of the approved comparable compliance application form, e-mail datcpdfrsrec@wisconsin.gov or contact the Bureau of Food and Recreational Businesses at (608) 224-4702 or PO Box 8911, Madison, Wisconsin 53708-8911.
- (b) Design standards. Sanitary dump stations shall conform to the requirements in s. SPS 382.37 (2).
- (c) Location. A sanitary dump station may not be located within 50 feet of a permanent body of surface water nor within 15 feet of a designated campsite unless an alternative is approved by the department under s. ATCP 79.02 (2).
- (d) Flushing and cleaning. A supply of water shall be provided to wash down the drain receptor and pad. The water supply shall be marked: "THIS IS WATER FOR FLUSHING AND CLEANING NOT FOR DRINKING OR DOMESTIC PURPOSES."
- (e) Dump station apron buffer. A distance of 5 feet or more shall be provided around the sanitary dump station apron to prevent contamination from splash to areas used by the general public.
- (3) WASTE FROM RECREATIONAL VEHICLES.
 - (a) If approved by the department of safety and professional services, transfer tanks may be used to receive the discharge from the toilet, shower, laundry, bath, or sink facility of a recreational vehicle.
 - (b) The operator shall ensure that sewage and domestic wastewater from a holding tank or transfer tank of a privately owned or operator-provided recreational vehicle is emptied as often as necessary so as not to create a nuisance. The operator shall ensure that sewage and domestic wastewater is disposed of in accordance with ch. NR 113 or into a sanitary dump station.
 - (c) Transfer tanks and holding tanks shall be maintained in good condition and be leakproof.
 - **Note:** The department of safety and professional services plumbing product approvals for RV transfer containers often require that transfer tank remain unburied. Consult with the department of safety and professional services concerning specific product approvals.
 - History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DHS 178.15 Register June 2016 No. 726; correction in (2) (a) (intro.), (c) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726; correction in (3) (c) made under s. 35.17, Stats., Register June 2016 No. 726.

ATCP 79.16 Toilet facilities.

- (1) Toilet buildings.
 - (a) Design standards. A toilet building shall comply with chs. SPS 361 to 365 as enforced by the department of safety and professional services. In addition, the toilet building shall have impervious floors and doors equipped with self-closing devices. Toilet buildings shall be fly-tight, vermin-proof, and maintained in clean and good repair.
 - (b) Toilet rooms; sex designation. Separate toilet rooms shall be provided for each sex and shall be available at all times while the campground is occupied by dependent camping units.
 - (c) Hand wash sinks. If a hand wash sink or portable hand wash sink is provided for hand washing, the hand wash sink shall be provided with an adequate supply of soap, water supply that meets the requirements under s. ATCP 79.14, single-use toweling or hand drying device, and a waste receptacle.
- (2) WALKWAYS. Walkways to toilet buildings shall be provided and shall allow safe access under all weather conditions.
- (3) Toilets.
 - (a) General.
 - 1. Each toilet stall or compartment shall be equipped with a privacy lock.
 - 2. Each toilet stall or compartment shall be provided with an adequate supply of toilet paper.
 - 3. Toilet seats and riser shall be smooth, nonabsorbent and easily cleanable.
 - 4. Each toilet and each toilet compartment or stall shall be maintained and in good repair and working condition.
 - (b) Construction and type. Vault privies and other toilet units shall comply with chs. SPS 362 and 391 enforced by the department of safety and professional services.

(c) Location.

- 1. A toilet for each sex shall be located within 400 walking distance feet from each dependent campsite unless an alternative is approved by the department under s. ATCP 79.02 (2).
- 2. A vault privy may not be located within 15 feet of a campsite or a building used for human occupancy.
- 3. A distance between 15 and 75 feet may be approved by the department for other approved privy or toilet types.
- (d) Minimum number of toilets; dependent campsites.
 - 1. Except as provided under subd. 2., an operator with dependent campsites shall provide the number of toilets specified in Table ATCP 79.16. If a campground has more than 100 dependent campsites, one additional toilet for each sex shall be provided for every additional 75 campsites or fraction thereof except that urinals may be substituted for up to 50% of the calculated number of toilets required for males. See PDF for table
 - 2. For each dependent group campsite, the operator shall provide one toilet for each sex for every 30 campers or fraction thereof. Urinals may be substituted for up to 50% of the number of toilets required for males.
 - 3. Campgrounds with plans and specifications approved by the department before September 1, 1992 shall have the number of toilets required by the rules in effect when the plans and specifications were approved. If the operator increases or modifies any campground attribute, the operator shall meet the plan review requirements as provided under s. ATCP 79.04.
- (e) Minimum number of toilets; independent campsites.
 - 1. Except as provided in subd. 2., the operator shall provide a backup toilet for each sex for every 100 independent campsites or fraction thereof. The toilets shall be available at all times that the campground is occupied.
 - 2. Backup toilets are not required where campsites are designed for and limited exclusively to use by independent camping units, and the camping units are connected to the campground's POWTS or a municipal waste treatment system.
- (f) Unisex toilets. The operator may use unisex toilets if the total number of required toilets for both male and female is the same or higher than specified in Table ATCP 79.16.

History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DHS 178.16 Register June 2016 No. 726; correction in (1) (c), (3) (c) 1., (d) 1., 3., (f), Table made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726; correction in (1) (a), Table ATCP 79.16 (title) made under s. 35.17, Stats., Register June 2016 No. 726.

ATCP 79.17 Shower building.

- (1) If a building housing showers is provided at a campground, the building shall comply with chs. SPS 361 to 365 as enforced by the department of safety and professional services.
- (2) Shower room floors shall be slip-resistant or be provided with nonabsorbent, easily cleanable matting. The mats shall be maintained clean and in good condition.

History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DHS 178.17 Register June 2016 No. 726.

ATCP 79.18 Petting zoos.

- (1) If the campground includes a petting zoo, the operator shall provide a hand washing or a hand sanitizing station near the exit to encourage hand washing by patrons after handling animals.
- (2) The operator shall post a sign at the hand washing or hand sanitizing station required under sub. (1), with the following wording "For the health of our guests, hand washing or hand sanitizing is encouraged for all who have been in the petting zoo area".
- (3) A petting zoo may not be located within 100 feet of a campsite as specified in s. ATCP 79.11 (4) (b).

 History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DHS 178.18 Register June 2016 No. 726; correction in (3) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726.

ATCP 79.19 Fish and game cleaning station.

(1) If the campground includes a fish and game cleaning station, the operator shall maintain the cleaning station in a sanitary manner. The area used for fish cleaning shall be designed to be smooth, easily cleanable and nonabsorbent.

- (2) If the fish and game cleaning station has plumbing, the plumbing shall comply with the requirements in chs. SPS 382 to 384 as enforced by the department of safety and professional services.
- (3) A fish and game cleaning station may not be within 75 feet of a campsite. This subsection first applies to a fish and game cleaning station that is new or replaced after February 1, 2016.

History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DHS 178.19 Register June 2016 No. 726.

ATCP 79.20 Garbage and refuse.

- (1) GENERAL.
 - (a) The operator shall provide a sufficient number of garbage, refuse, and recyclables containers for use by campers. The containers shall be durable, cleanable, insect-resistant, rodent-resistant, leakproof, nonabsorbent, and of sufficient capacity to hold all of the accumulated garbage, refuse, and recyclables. The containers shall be covered, unless the containers are emptied on a daily basis. Collection points may be located throughout the campground for centralized garbage, refuse and recyclable pickup. A campground operator may request a variance under s. ATCP 79.02 (2) to receive approval for an alternate method of garbage and refuse pick up.

(b)

- 1. The operator shall prevent garbage, refuse, and recyclable containers from developing a buildup of soil or attracting insects and rodents.
- 2. The operator may not store garbage or refuse outside in plastic bags, wet-strength paper bags, or baled units after collection.
- (2) BURNING OF REFUSE. If the operator burns garbage or refuse, the operator shall comply with s. NR 429.04 and chs. NR 415 and 445 as enforced by the department of natural resources. Areas around burning facilities shall be clean and orderly.

History: CR 15-001; cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DIIS 178.20 Register June 2016 No. 726; correction in (1) (a) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726; correction in (1) (a) made under s. 35.17, Stats., Register June 2016 No. 726.

ATCP 79.21 Insect and rodent control. The operator shall provide effective measures to minimize the presence of rodents, flies, cockroaches, bed bugs, and other insects in operator-provided camping units and other buildings located in the campground.

History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DHS 178.21 Register June 2016 No. 726.

ATCP 79.22 Fire prevention.

- (1) GENERAL. A campground shall be kept free of litter, rubbish and other flammable materials.
- (2) Fire extinguisher. At least one ABC rated fire extinguisher shall be available in a campground office or other building that is accessible to campers. The fire extinguisher shall be readily accessible and maintained in operable condition.
- (3) CAMPFIRES.
 - (a) Except as specified in par. (b), a campfire shall be contained in a campfire ring and located a minimum of 5 feet away from all camping units, building structures, and motor vehicles.
 - (b) A campsite existing before February 1, 2016, is exempt from the requirements in par. (a).
- (4) GRILLS. An operator-provided grill shall be maintained in good repair.

History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DHS 178.22 Register June 2016 No. 726.

ATCP 79.23 Play equipment.

- (1) Play or recreational equipment shall be installed according to manufacturer's instructions and maintained in good repair.
- (2) Play equipment shall be free of open "S" hooks, protruding bolt ends, and sharp points or edges.

 History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DHS 178.23 Register June 2016 No. 726.

ATCP 79.24 General campground administration.

(1) GENERAL.



- (a) Every campground shall be operated, equipped, and maintained with strict regard for the public health and safety and in conformity with the rules of this chapter.
- (b) The campground operator shall maintain the campground, its structures, and its facilities in a clean and safe condition at all times.
- (2) CAMPGROUND REGISTER. The operator shall maintain a written or electronic campground register that contains the name of each principal campsite occupant, this person's contact information, the person's arrival and departure dates, and the number of campers in the person's party. The campground register shall be available to any authorized employee or agent of the department who, in carrying out his or her duties, asks to inspect the register. The operator shall keep the campground register for at least one year after the principal campsite occupant's date of departure from a campsite.
- (3) EMERGENCY TELEPHONE. The operator shall display a durable sign posted in public view with the following wording "EMERGENCY COMMUNICATIONS." The sign shall provide directions to the nearest location where a telephone is available for emergency use.
- (4) RECORDS. The operator shall maintain a copy of all of the following records on the premises of the campground:
 - (a) The campground plans and specifications approved by the department or its agent.
 - (b) The most current version of ch. ATCP 79.
 - (c) Department approvals under s. ATCP 79.02 (2).
 - (d) The most current bacteriological analysis for total coliform report from water testing for each water system serving the campground.

History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DHS 178.24 Register June 2016 No. 726; correction in (4) (b), (c) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726.

ATCP 79.25 Mobile or manufactured homes in a campground. Whenever 3 or more mobile or manufactured homes are located in a campground, the operator shall either obtain a license as a manufactured home community from the department of safety and professional services as specified in s. SPS 326.08 (1) or develop and implement an action plan in accordance with s. ATCP 79.07 (4) to remove all but 2 mobile or manufactured homes from the campground.

History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; correction made under s. 35.17, Stats., Register October 2015 No. 718; renum. from DHS 178.25 Register June 2016 No. 726; correction made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726.

ATCP 79.26 Special event campgrounds.

- (1) LICENSE REQUIRED.
 - (a) Before a person may operate a special event campground, the person shall have a license issued by the department or its agent. The department or its agent may issue a license for a special event campground only in conjunction with a special event, such as a fair, rally, carnival, music festival, sporting event, community festival, or other similar event.
 - (b) No camping may occur until a license is granted by the department or its agent.
- (2) LICENSE DURATION AND RENEWAL. A license issued under this section may not exceed 14 days in duration.
- (3) APPLICATION. The application for a license for a special event campground shall be made to the department or its agent at least 30 days before the special event. The application for a license shall be made on an application form provided by the department or its agent and shall include all of the following:
 - (a) The location of the event.
 - (b) An estimate of the number of people to be accommodated.
 - (c) The water supply source and distribution method.
 - (d) The number and locations of toilet facilities and plans for servicing and maintenance.
 - (e) The number and location of garbage and refuse disposal sites.
 - (f) The methods for disposal of liquid waste.
 - (g) The applicable fee specified under s. ATCP 79.06 and any fees previously due to the department or its agent.
- (4) Size.
 - (a) A campsite in a special event campground shall have a minimum area of 800 square feet.

٠ ا

- (b) A campsite in a special event campground established before February 1, 2016 is exempt from the requirements in par. (a).
- (5) WATER SUPPLY. Potable water shall be provided. If potable water is not provided by a well, the operator shall obtain prior approval from the department or its agent of a an alternative method of providing a potable water supply, such as bottled water provided free of charge or an approved water transport vehicle or storage container.
- (6) Toilet facilities.
 - (a) If permanent toilet facilities are not provided in sufficient numbers, portable toilets may be used if approved by the department of safety and professional services. The operator shall contract with a licensed waste hauler and provide the department or its agent with a copy of the written agreement or obtain an alternative method of waste disposal that is approved by the department under s. ATCP 79.02 (2).
 - (b) Toilets facilities shall be fly-tight and vermin-proof with impervious floors, seat risers and seats. Doors shall have self-closing devices and be equipped with a privacy lock.
 - (c) Toilet facilities shall be kept clean, maintained in good repair, and emptied with sufficient frequency to ensure their proper operation.
- (7) Wastewater. Water that has been used for cleaning or personal hygiene shall be disposed of in a manner not to create a nuisance.
- (8) Garbage and refuse shall be stored and disposed of in accordance with s. ATCP 79.20.

History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; renum. from DHS 178.26 Register June 2016 No. 726; correction in (3) (g), (6) (a), (8) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726; correction in (6) (b) made under s. 35.17, Stats., Register June 2016 No. 726; CR 18-019: am. (1), (2), (3) (intro.) Register January 2020 No. 769, eff. 2-1-20.

ATCP 79.27 Rustic campsites.

- (1) A rustic campsite is exempt from the requirements in ss. ATCP 79.11 to 79.17 and 79.20 to 79.22 (2) and (4).
- (2) A rustic campsite shall be located a minimum of 500 feet from a designated parking area, a road for motorized access, a non-rustic campsite, a camping cabin, a tourist rooming house, or any other building structure located within the campground.
- (3) There may be no more than one rustic campsite per acre. The minimum distance between each rustic campsite shall be 400 feet unless a variance is approved by the department under s. ATCP 79.02 (2). The department may consider topography in the approval making process.
- (4) The operator shall require the camper to carry garbage and refuse out of the rustic campsite.
- (5) A rustic campsite may be designated, and provided with a campfire ring.

History: CR 15-001: cr. Register October 2015 No. 718, eff. 2-1-16; renum, from DHS 178.27 Register June 2016 No. 726; correction in (1), (3) made under s. 13.92 (4) (b) 7., Stats., Register June 2016 No. 726.

Menu » Administrative Rules Related » Administrative Code » Department of Agriculture, Trade and Consumer Protection (ATCP) » Chs. ATCP 55-89; Food, Lodging, and Recreation Safety » Chapter ATCP 79

Menu

327.31 Wood frame floors.

327.33 Exterior covering. 327.34 Wood frame walls.

327.32 Decks.

- »Administrative Rules Related
- »Administrative Code
- »Department of Safety and Professional Services (SPS)
- »Chs. SPS 301-; Safety, Buildings, and Environment
- »Chs. SPS 326-360; General, Part II
- »Chapter SPS 327

Register May 2018 No. 749

Chapter SPS 327 CAMPING LINITS

ent

	Subchapter I — Administration and Enforcem
327.01	Purpose.
327.02	Scope.
327.03	Effective date.
327.04	Applications.
327.05	Exemptions.
327.06	Procedure for municipalities.
327.07	State jurisdiction.
327.08	Definitions.
327.09	Wisconsin camping unit building permit.
327.10	Procedure for obtaining camping unit building permit.
327.11	Inspections.
327.12	Approval procedures.
327.13	Suspension or revocation of Wisconsin camping unit building permit.
327.14	Effect of suspension and revocation.
327.15	11 1
	Petition for variance.
327.17	4
327.18	Appeals of orders, determinations, and for extension of time.
327.19	*
	Subchapter II — Construction Standards
	Loads and materials.
327.21	
	Stairways and elevated areas.
	Ladders.
	Ceiling height.
	Fireblocking.
	Smoke detectors.
	Carbon monoxide alarms.
327.28	<u> </u>
327.29	Floor design.
327.30	Wood floors in contact with the ground.

- 327.35 Roof design and framing.
- 327.36 Weather protection for roofs.

Subchapter III - Heating, Ventilating, and Air Conditioning

- 327.37 Scope.
- 327.38 Design.
- 327.39 Selection of equipment.
- 327.40 Types and location of equipment.
- 327.41 Combustion air.
- 327.42 Mechanical draft systems.
- 327.43 Equipment maintenance information.
- 327.44 Ductwork.
- 327.45 Dampers, registers, and grilles.
- 327.46 Piping.
- 327.47 Venting system location.
- 327.48 Multiple appliance venting.
- 327.49 Fuel storage.

Subchapter IV — Electrical Standards

327.50 Electrical standards.

Subchapter V — Plumbing

327.51 Plumbing.

Subchapter VI — Camping Unit Transfer Tanks

- 327.52 Purpose.
- 327.53 Installation and maintenance.
- 327.54 Compliance with code.
- 327.55 Servicing requirements.
- 327.56 Abandonment.
- 327.57 Penalties.

Note: Ch. SPS 327 was created by emergency rule, EmR1703, effective February 6, 2017.

Subchapter I — Administration and Enforcement

SPS 327.01 Purpose. The purpose of this code is to establish uniform statewide construction standards and inspection procedures for camping units in accordance with the requirements of ss. 101.63 (1), 101.82 (1), and 145.02 (2) (b), Stats.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.02 Scope.

(1) GENERAL. The provisions of this code apply to all camping units for which construction commenced on or after February 6, 2017.

Note: Also see s. SPS 327.04.

- (2) MUNICIPAL ORDINANCES.
- (a) A municipality may not adopt an ordinance on any subject falling within the scope of this code including establishing restrictions on the occupancy of camping units for any reason other than noncompliance with the provisions of this code as set forth in s. SPS 327.11 (5). This code does not apply to occupancy requirements occurring after the first occupancy following the final inspection required under s. SPS 327.11 (4).
- (b) This code shall not be construed to affect local requirements relating to land use, zoning, post-construction storm water management, fire districts, side, front and rear setback requirements, property line requirements or other similar requirements. This code shall not affect the right of municipalities to establish safety regulations for the protection of the public from hazards at the job site.
- (c) Any municipality may, by ordinance, require permits and fees for any construction, additions, alterations, or repairs not within the scope of this code.

- (d) Any municipality may, by ordinance, adopt the provisions of this chapter to apply to any additions or alterations to existing camping units.
- (e) Nothing in this chapter shall prevent a municipality from any of the following:
- 1. Implementing erosion and sediment control requirements that are more stringent than the standards of this code when directed by an order of the United States Environmental Protection Agency or by an administrative rule of the department of natural resources under s. NR 151.004.
- 2. Regulating erosion and sediment control for sites that are not under the scope of this chapter.
- (f) This code shall not be construed to affect the authority of the department of natural resources to enforce chs. 281 and 283, Stats., and administrative rules promulgated thereunder.
- (3) LEGAL RESPONSIBILITY. The department or the municipality having jurisdiction shall not assume legal responsibility for the design or construction of camping units.
- (4) RETROACTIVITY. The provisions of this code are not retroactive, except as specifically stated in a rule.
- (5) LANDSCAPING. The scope of this code does not extend to driveways, sidewalks, landscaping, and other similar features not having an impact on the camping unit structure.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18; correction in (2) (f) made under s. 35.17, Stats., Register March 2018 No. 747.

SPS 327.03 Effective date. The effective date of this chapter is February 6, 2017.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.04 Applications.

- (1) NEW CAMPING UNITS. This code applies to all camping units for which construction commenced on or after February 6, 2017. All camping units covered under this subsection shall meet the requirements of this chapter. If a plumbing, electrical, heating, or air conditioning system is installed in a camping unit, the system shall meet the requirements of this chapter.
- (2) ADDITIONS AND ALTERATIONS. Additions and alterations to camping units covered by this code shall comply with all provisions of this code at the time of permit application or the beginning of the project, if no permit is required.
- (3) CHANGE OF USE. Property previously used for another purpose shall comply with this code upon conversion to a camping unit.

Note: Examples of property that may be converted to a camping unit include a cabin, covered wagon, or gazebo.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.05 Exemptions.

- (1) EXISTING CAMPING UNITS. The provisions of this code shall not apply to camping units, the construction of which was commenced prior to February 6, 2017, or to additions or alterations to such camping units.
 - Note: As provided under s. SPS 327.02 (2) (d), the provisions of this chapter may be adopted by a municipality to apply to any additions or alterations to existing camping units.
- (2) REPAIRS. The provisions of this code do not apply to repairs or maintenance to camping units, or to the repair of electrical, plumbing, heating, ventilating, air conditioning and other systems installed therein.
- (3) ACCESSORY BUILDINGS. The provisions of this code do not apply to detached garages or to any accessory buildings detached from the camping unit.
- (4) DETACHED DECKS. The provisions of this code do not apply to detached decks provided the deck does not serve an exit from the camping unit.
- (5) MANUFACTURED AND MODULAR HOMES. The provisions of this code do not apply to manufactured homes and modular homes.
- (6) MOTOR AND MOBILE HOMES AND RECREATIONAL VEHICLES. The provisions of this code do not apply to motor homes, recreational vehicles, park model recreational vehicles, and recreational mobile homes.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.06 Procedure for municipalities.

(1) MUNICIPAL JURISDICTION.

- (a) General.
- 1. Except as provided in par. (b), cities, villages, towns, and counties approved by the department under s. SPS 320.06 to exercise jurisdiction over the construction and inspection of new dwellings shall exercise jurisdiction over the construction and inspection of new camping units.
- 2. Municipalities exercising jurisdiction under subd. 1. shall, by ordinance, adopt this code in its entirety.
- 3. Except as provided under s. SPS 327.02 (2) (d), no additional requirements within the scope of this code may be adopted by a municipality unless approved by the department in accordance with s. SPS 327.17.
- (b) Intent to not exercise jurisdiction. Municipalities intending not to exercise jurisdiction over the construction and inspection of new camping units shall notify the department, in writing, within 90 days of the effective date of this code.
- (c) Recision of ordinances. Municipalities that rescind an ordinance under par. (a) shall file a certified copy of the recision with the department within 30 days of adoption.
 - Note: Notification of intent to not exercise jurisdiction and certified copies of recisions of ordinances should be sent to Department of Safety and Professional Services, Industry Services Division, PO Box 2658, Madison, WI 53701-2658.
- (2) DEPARTMENTAL JURISDICTION. In municipalities not exercising jurisdiction under sub. (1), the department will oversee enforcement and inspection services for new camping units.
 - History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.
- **SPS 327.07** State jurisdiction. In accordance with s. 101.64 (1) (h), Stats., municipalities administering the code may be monitored by the department for compliance with the administrative requirements under this code.
 - History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18; correction made under s. 13.92 (4) (b) 7., Stats., Register May 2018 No. 749.

SPS 327.08 **Definitions.** In this chapter:

- (1) "Accessory building" means a detached building, not used as a camping unit but is incidental to that of the camping unit and which is located on the same lot. Accessory building does not mean farm building.
- (2) "Addition" means new construction performed on a camping unit which increases the outside dimensions of the camping unit.
- (3) "Allowable stress" means the specified maximum permissible stress of a material expressed in load per unit area.
- (4) "Alteration" means an enhancement, upgrading, or substantial change or modification other than an addition or repair to a camping unit or to electrical, plumbing, heating, ventilating, air conditioning, and other systems within a camping unit.
- (5) "Approved" means an approval by the department or its authorized representative. Approval is not to be construed as an assumption of any legal responsibility for the design or construction of the camping unit.
- (6) "Building component" means any subsystem, subassembly, or other system designed for use in or as part of a structure, which may include structural, electrical, mechanical, plumbing, and fire protection systems and other systems affecting health and safety.
- (7) "Building system" means plans, specifications and documentation for a system of manufactured building or for a type or a system of building components, which may include structural, electrical, mechanical, plumbing, and variations which are submitted as part of the building system.
- (8) "Campground" has the meaning given in s. ATCP 79.03 (3).
 - **Note:** ATCP 79.03 (3) reads: "Campground" means a parcel or tract of land owned by a person, state, or local government that is designed, maintained, intended, or used for the purpose of providing campsites offered with or without charge, for temporary overnight sleeping accommodations.
- (9) "Camping unit" means a framed structure or a tent, teepee, yurt, or other structure with fabric roof or walls that is 400 square feet or less in area, which is placed by a campground owner or operator in a campground for which a permit is issued under s. 97.67, Stats., and used for seasonal overnight camping.

- (10) "Camping unit transfer tank" or "transfer tank" means a type of portable container used to collect and hold wastewater discharges generated by an individual camping unit.
- (11) "Ceiling height" means the clear vertical distance from the finished floor to the finished ceiling.
- (12) "Certified UDC inspector" means a person certified by the department to engage in the administration and enforcement of this code.
- (13) A "chimney" is one or more vertical, or nearly so, passageways or flues for the purpose of conveying flue gases to the atmosphere.
- (14) "Code" means this chapter.
- (15) "Common area" means a kitchen, hallway, or any habitable room.
- (16) "Cooling load" is the rate at which heat must be removed from the space to maintain a selected indoor air temperature during periods of design outdoor weather conditions.
- (17) "Deck" means an unenclosed exterior structure, attached or adjacent to the exterior wall of a camping unit, which has a floor, but no roof.
- (18) "Department" means the department of safety and professional services.
- (19) "Dilution air" means air that is provided for the purpose of mixing with flue gases in a draft hood or draft regulator.
- (20) "Direct-vent appliance" means a gas-burning appliance that is constructed and installed so that all air for combustion is derived directly from the outside atmosphere and all flue gases are discharged to the outside atmosphere.
- (21) "Exit" means a direct, continuous, unobstructed means of egress from inside the camping unit to the exterior of the camping unit.
- (22) "Fireblocking" means a material or device used to retard or prevent the spread of flame or hot gases through concealed spaces into adjacent rooms or areas.
- (23) "First floor" means the first floor level above any groundfloor or basement or, in the absence of a groundfloor or basement, means the lowest floor level in the camping unit.
- (24) "Flight" means a continuous series of risers and treads, with no intermediate landings.
- (25) "Gas appliance" means any device that uses gas as a fuel or raw material to produce light, heat, power, refrigeration, or air conditioning.
- (26) "Groundfloor" means that level of a camping unit, below the first floor, located on a site with a sloping or multilevel grade and which has a portion of its floor line at grade.
- (27) "Guard" means a barrier erected to prevent a person from falling to a lower level.
- (28) "Habitable room" means any room used for sleeping, living, or dining purposes, excluding such enclosed places as kitchens, closets, pantries, bath or toilet rooms, hallways, laundries, storage spaces, utility rooms, and similar spaces.
- (29) "Handrail" means a horizontal or sloping rail intended for grasping by a hand, for guidance or support or preventing a fall down a stair.
- (30) "Heating load" is the estimated heat loss of each room or space to be heated, based on maintaining a selected indoor air temperature during periods of design outdoor weather conditions. The total heat load includes: the transmission losses of heat transmitted through the wall, floor, ceiling, glass or other surfaces; and either the infiltration losses or heat required to warm outdoor air used for ventilation.
- (31) "HVAC" means heating, ventilating and air conditioning.
- (32) "HVAC system" means the equipment, distribution network, and terminals that provide either collectively or individually the processes of heating, ventilating, or air conditioning to a building.
- (33) "Insignia" or "Wisconsin insignia" means a device or seal approved by the department to certify compliance with this code.
- (34) "Kitchen" means an area used, or designed to be used, for the preparation of food.

- (35) "Land disturbing construction activity" means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or non-vegetative soil cover, that may result in storm water runoff and lead to an increase in soil erosion and movement of sediment.
- (36) "Landing" means the level portion of a stairs located between flights of stairs or located at the top and base of a stairs.
- (37) "Lavatory" means a sink or basin in a camping unit bathroom.
- (38) "Listed and listing" means equipment or building components which are tested by an independent testing agency and accepted by the department.
- (39) "Loft" means an upper room or floor with one side that has at least 50% of the space from the floor to the ceiling open to the floor below.
- (40) "Manufactured home" has the meaning given in s. 101.91 (2), Stats.
- (41) "Mechanical draft system" means a venting system for a gas burning appliance that is designed to remove flue or vent gases by mechanical means, such as a fan, which may consist of an induced draft portion under non-positive static pressure or a forced draft portion under positive static pressure.
- (42) "Modular home" has the meaning given in s. 101.71 (6), Stats.
- (43) "Motor home" has the meaning given in s. 340.01 (33m), Stats.
- (44) "Municipality" means any city, village, town, or county in this state.
- (45) "Naturally vented appliance" means an appliance with a venting system designed to remove flue or vent gases under non-positive static vent pressure entirely by natural draft.
- (46) "Owner" means any person having a legal or equitable interest in the camping unit.
- (47) "Park model recreational vehicle" means a factory built vehicular structure that is designed only for recreational use and not as a primary residence or for permanent occupancy, is built and certified in accordance with the National Fire Protection Association's NFPA 1192-15, Standard for Recreational Vehicles, or the American National Standards Institute's ANSI A119.5-15, Recreational Park Trailer Standard, and is not certified as a manufactured home.
- (48) "Porch" means an unenclosed exterior structure at or near grade attached or adjacent to the exterior wall of any camping unit, and having a roof and floor.
- (49) "Pre-existing insignia" or "Wisconsin pre-existing insignia" means a device or seal approved by the department for camping units, the construction of which was commenced prior to February 6, 2017.
- (50) "Recreational mobile home" has the meaning given in s. 66.0435 (1) (hm), Stats.
- (51) "Recreational vehicle" has the meaning given in s. 340.01 (48r), Stats.
- (52) "Registered UDC inspection agency" means a person, business, or entity that is registered with the department for the purpose of facilitating issuance of Wisconsin camping unit building permits and inspection of camping units in municipalities where the department has jurisdiction pursuant to s. 101.651 (3) (b), Stats.
- (53) "Repair" means the act or process of restoring to original soundness, including redecorating, refinishing, nonstructural repairs or maintenance, or the replacement of existing fixtures, systems, or equipment with the equivalent fixture, system or equipment.
- (54) "Shingle" means a unit of roof-covering material that has been manufactured to specific dimensions and is applied in overlapping fashion. "Shingle" includes all of the following:
- (a) "Fiberglass asphalt shingle" means a type of shingle with an internal mat composed of nonwoven, resinbonded glass fibers, that is impregnated and coated with asphalt.
- (b) "Laminated shingle" means a shingle with a second layer of asphalt and mat laminated to the first layer, usually in a design pattern to simulate the dimensional appearance of natural slate or wood shakes.
- (c) "Organic asphalt shingle" means a shingle with an internal mat composed of organic fibers, such as cellulose, that is saturated and coated with asphalt.

- (d) "Strip shingle" means a rectangular shingle that relies either on a sealant or on a combination of weight and stiffness to resist wind uplift, rather than using interlocking tabs.
- (55) "Stair," "stairs," or "stairway" means one or more risers that form a continuous passage from one elevation to another.
- (56) A "story" is that portion of a camping unit located between the floor and the ceiling.
- (57) "Vent" means a vertical flue or passageway to vent fuel-burning appliances.
- (58) "Ventilation" means the process of supplying or removing air by natural or mechanical means to or from any space.
- (59) "Water closet" means a water-flushed plumbing fixture designed to receive human excrement directly from the user of the fixture.
- (60) "Waters of the state" includes those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, watercourses, drainage systems, and other surface waters or groundwaters, natural or artificial, public or private, within the state or its jurisdiction.
- (61) "Window" means a glazed opening in an exterior wall, including glazed portions of doors, within a conditioned space.

SPS 327.09 Wisconsin camping unit building permit.

- (1) WHERE REQUIRED. A Wisconsin camping unit building permit shall be obtained from the municipality administering and enforcing this code or from a registered UDC inspection agency administering and enforcing this code in a municipality where the department has jurisdiction pursuant to s. 101.651 (3) (b), Stats., before any construction of a camping unit may begin.
- (2) INSPECTIONS. A person who obtains a Wisconsin camping unit building permit from a registered UDC inspection agency shall retain the same agency to conduct the inspection of the camping unit under s. SPS 327.11.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.10 Procedure for obtaining camping unit building permit.

(1) APPLICATION. Application for a Wisconsin camping unit building permit shall be on forms obtained from the department, the municipality, or the authorized UDC inspection agency administering and enforcing this code. No application shall be accepted that does not contain all the information requested on the form.

Note: Applications are available from the department by email at dsps@wiseonsin.gov or by telephone at (608) 266-2112, (877) 617-1565, or 411 (Telecommunications Relay).

- (2) FILING OF PERMIT APPLICATIONS. A Wisconsin camping unit building permit shall be filed with the municipality or the authorized UDC inspection agency administering and enforcing this code.
- (3) FEES.
- (a) Municipal fees. The municipality shall, by ordinance, determine fees to cover expenses of final inspection of the camping unit and the issuance of a Wisconsin insignia.

Note: Also see s. SPS 302.34, which sets the fee the department will charge for a Wisconsin insignia.

- (b) Inspection agency fees. UDC inspection agency fees shall be determined by contract between the municipality and the agency or between the department and the agency, where the agency has been authorized to conduct inspections on behalf of the department.
- (4) ISSUANCE OF PERMITS.
- (a) The Wisconsin camping unit building permit shall be issued if the requirements for filing and fees are satisfied.
- (b) The permit shall expire 24 months after issuance if construction of the camping unit has not been completed.
- (5) DENIAL OF PERMITS.

- (a) General. Approval shall be denied if the municipality or authorized UDC inspection agency administering and enforcing this code determines that the Wisconsin camping unit building permit application does not substantially conform to the provisions of this code and other legal requirements.
- **(b)** Denial of application. A copy of the denied application, accompanied by a written statement specifying the reasons for denial, shall be sent to the applicant and to the owner as specified on the Wisconsin camping unit building permit application.
- (c) Appeals. The applicant may appeal a denial of the application in accordance with the procedure outlined in s. SPS 327.18.
- (6) TIME-SPAN FOR APPROVAL OR DENIAL. Action to approve or deny a camping unit building permit application shall be completed within 10 business days of receipt of the application, fees, and supplementary information required to process the application.

SPS 327.11 Inspections.

(1) INSPECTOR CERTIFICATION. All inspections, for the purpose of administering and enforcing this code, shall be performed by a certified UDC inspector who holds the respective credential for the inspection performed.

Note: Also see ch. SPS 305, which relates to licenses, certifications, and registrations.

- (2) GENERAL INSPECTION REQUIREMENTS.
- (a) General. Camping units for which a permit has been issued under s. SPS 327.10 (4) shall be inspected in accordance with this section. Inspections shall be conducted by the municipality or authorized UDC inspection agency administering and enforcing this code to determine if the construction conforms to the provisions of this code.
- (b) Inspection notice. The applicant or an authorized representative shall request an inspection required under sub. (3) or (4) from the municipality or authorized UDC inspection agency administering and enforcing this code.
- (3) ROUGH INSPECTION.
- (a) A rough inspection of the following shall be performed after the rough work is constructed but before it is concealed to determine if the work complies with this code:
- 1. General construction, including framing.
- 2. Rough electrical.
- 3. Rough plumbing.
- 4. Rough heating, ventilating and air conditioning.
- (b) All rough work may be completed before the notice for rough inspection is given, provided the rough work has not been covered.
- (c) The applicant may request one rough inspection or individual rough inspections.
- (d) A separate fee may be charged for each individual inspection.
- (4) Final inspection required prior to occupancy.
- (a) A camping unit may not be occupied until a final inspection has been made of a camping unit's construction, HVAC, electrical, plumbing, and transfer tank that finds no critical violations of this code that could reasonably be expected to affect the health or safety of a person using the camping unit.
- (b) If the municipality or authorized UDC inspection agency conducting the inspection under this subsection did not conduct the inspection under sub. (3), the final inspection under this subsection may not take place until the municipality or authorized UDC inspection agency is provided a copy of an inspection report or other written verification of a pass result for all inspections required under sub. (3).
- (5) NOTICE OF COMPLIANCE OR NONCOMPLIANCE.
- (a) Upon a finding of compliance for an inspection under sub. (4), the municipality shall assign a Wisconsin insignia to the owner of the camping unit as provided in s. SPS 327.12 (1).

- (b) Upon a finding of noncompliance for an inspection under sub. (3) or (4), the municipality or authorized UDC inspection agency enforcing this code shall notify the applicant of record and the owner, in writing, of the violations to be corrected.
- (c) The municipality or authorized UDC inspection agency shall order all cited violations corrected within 30 days after written notification, unless an extension of time is granted under s. SPS 327.18.
- (6) VOLUNTARY INSPECTION. The department or its authorized representative may, at the request of the owner, enter and inspect camping units, subject to the provisions of this code, to ascertain compliance with this code.
- (7) RECORD KEEPING.
- (a) Municipal enforcement. Municipalities that have adopted an ordinance to enforce this code shall maintain records in accordance with all of the following:
- 1. A record shall be made of each visit to a site, each inspection performed, and the pass or fail results of each inspection.
- 2. Application forms, correction orders, correspondence and inspection records shall be maintained for 7 years after completion of the camping unit.
- **(b)** State enforcement. Inspectors working under state contract shall maintain records in accordance with the provisions of the contract that was in effect at the time the inspections were completed.

Note: Records generated by an inspection are public records and are subject to the open-records law.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.12 Approval procedures.

- (1) WISCONSIN INSIGNIA.
- (a) Upon a finding of compliance under s. SPS 327.11 (5) (a), the municipality shall issue a Wisconsin insignia to the owner of the camping unit.
- (b) At the request of the owner of a camping unit that is exempt from the provisions of this code under s. SPS 327.05 (1), the municipality shall issue a Wisconsin pre-existing insignia to the owner of the camping unit. A pre-existing insignia shall contain the following language: "Unit was constructed before code's eff. date."
- (c) Wisconsin insignias shall be purchased by municipalities from the department in accordance with the fee established in s. SPS 302.34. The owner of the camping unit shall affix the Wisconsin insignia to the camping unit as provided in sub. (4).
- (2) UNIT IDENTIFICATION. Each camping unit shall be assigned a serial number. The serial number shall be located on the Wisconsin insignia.
- (3) LOST OR DAMAGED INSIGNIA.
- (a) Notification. If a Wisconsin insignia becomes lost or damaged or is no longer in use, the owner of the camping unit shall immediately notify the municipality in writing.
- **(b)** Return of damaged insignias. If a Wisconsin insignia becomes damaged, the owner of the camping unit shall return the insignia to the municipality with the appropriate fee to obtain a new insignia.
- (4) AFFIXING WISCONSIN INSIGNIAS. Each Wisconsin insignia shall be affixed to a specific camping unit in an overt location on the outside or inside of the camping unit. If the Wisconsin insignia is issued under sub. (1) (a), the camping unit may not be occupied until the Wisconsin insignia has been affixed as provided in this subsection.
- (5) INSIGNIA RECORDS.
- (a) Municipality's insignia records. The municipality shall keep permanent records regarding the handling of all Wisconsin insignias indicating the following:
- 1. The number of Wisconsin insignias affixed to camping units.
- 2. Which Wisconsin insignia has been applied to which camping unit.
- 3. The disposition of any damaged or rejected Wisconsin insignias.

- 4. The location and custody of all unused Wisconsin insignias.
- **(b)** Retention of insignia records. The records under par. (a) shall be maintained by the municipality for at least 10 years. A copy of the records shall be sent to the department upon request.

SPS 327.13 Suspension or revocation of Wisconsin camping unit building permit.

(1)

- (a) The municipality or the registered UDC inspection agency administering and enforcing this code may suspend or revoke any Wisconsin camping unit building permit where it appears that the permit or approval was obtained through fraud or deceit, where the applicant has willfully refused to correct a violation order, or where the inspector is denied access to the premises.
- (b) No construction may take place on the camping unit after suspension or revocation of the permit.
- (2) Any person aggrieved by a determination made by the department, a municipality, or a registered UDC inspection agency may appeal the decision in accordance with s. SPS 327.18.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.14 Effect of suspension and revocation.

- (1) BEARING OF INSIGNIA. Upon suspension or revocation under s. SPS 327.13, the camping unit shall not be entitled to bear the Wisconsin insignia and the camping unit may not be occupied unless the municipality has inspected, or caused to be inspected, such camping unit and is satisfied that all requirements for approval have been met.
- (2) RETURN OF INSIGNIAS. The owner shall return to the municipality a Wisconsin insignia assigned to a camping unit no later than 30 days from the effective date of any suspension or revocation under s. SPS 327.13.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.15 Approval of products.

- (1) VOLUNTARY APPROVAL.
- (a) Materials, equipment and products regulated by this code may receive a written approval from the department indicating code compliance.

(b)

- 1. Approval of materials, equipment and products shall be based on sufficient data, tests and other evidence that prove the material, equipment or product is in compliance with the standards specified in this code.
- **2.** Tests, compilation of data, and calculations for materials, equipment and products shall be conducted by a qualified independent third party.
- (2) ALTERNATE APPROVAL.
- (a) Materials, equipment and products, including experimental materials, equipment, and products, which meet the intent of this code and which are not approved under sub. (1) shall be permitted if approved in writing by the department.

(b)

- 1. Approval of materials, equipment and products shall be based on sufficient data, tests, and other evidence that prove the material, equipment, or product meets the intent of the standards specified in this code.
- 2. Tests, compilation of data, and calculations for materials, equipment, and products shall be conducted by a qualified independent third party.
- (3) REVIEW, APPROVAL AND REVOCATION PROCESSES.

(a)

- 1. Upon receipt of a fee and a written request, the department may issue an approval for a material, equipment, or product.
- 2. The department shall review and make a determination on an application for approval after receipt of all forms, fees, plans, and information required to complete the review.

3. For voluntary and alternate approvals, a determination shall be made within 40 business days of receipt of all required materials.

(b)

- 1. The department may include specific conditions in issuing an approval, including an expiration date for the approval.
- 2. Violations of the conditions under which an approval is issued shall constitute a violation of this code.
- (c) If the department determines that the material, equipment, or product does not comply with this code or the intent of this code, the request for approval shall be denied in writing.
- (d) If an approved material, equipment, or product is modified, the approval shall be considered null and void, unless the material, equipment, or product is resubmitted to the department for review and approval is granted.

(e)

- 1. The department may revoke or deny an approval of a material, equipment, or product for any false statements or misrepresentations of relevant facts or data, unacceptability of a third party providing information, or as a result of material, equipment, or product failure.
- 2. The department may re-examine an approved material, equipment, or product and issue a revised approval at any time.
- (f) The department may revoke an approval if the department determines that the material, equipment, or product does not comply with this code or the intent of this code due to a change in the code or department interpretation of the code.
- (g) An approval issued by the department may not be construed as an assumption of any responsibility for defects in design, construction, or performance of the approved material, equipment, or product nor for any damages that may result.
- (h) Fees for the review of a material, equipment or product under this section and any onsite inspections shall be submitted in accordance with ch. SPS 302.
- (4) UNGRADED OR USED MATERIALS.
- (a) Ungraded or used building materials may be used or reused as long as the material possesses the essential properties necessary to achieve the level of performance required by the code for the intended use.
- (b) The department or the municipality enforcing this code may require tests in accordance with sub. (1) or (2). History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.
- **SPS 327.16 Petition for variance.** The department may grant a variance to a rule only if the variance does not result in lowering the level of health, safety, and welfare established or intended by the rule. The department may consider other criteria in determining whether a variance should be granted including the effect of the variance on uniformity.
- (1) APPLICATION FOR VARIANCE. Application for a petition for variance shall be made on a form furnished by the department. The applicant shall submit the petition for variance application to the municipality exercising jurisdiction in order to receive the municipal recommendation. Where no municipality exercises jurisdiction, the application shall be submitted to the department. The following items shall be submitted when requesting a variance:
- (a) A clear written statement of the specific provisions of this code from which a variance is requested and the method of establishing equivalency to those provisions.
- (b) A fee in accordance with s. SPS 302.52. The municipality may require a fee for the processing of the application in addition to the department's fee.
 - Note: A copy of the petition for variance form, SBD-9890, is contained in ch. SPS 325 Appendix A.
- (2) MUNICIPAL RECOMMENDATION. The municipality administering and enforcing this code shall submit all applications for variance to the department, together with a municipal recommendation within 10 business days after receipt of the application. The recommendation of the municipality shall include the following items:

- (a) Inspections performed on the property.
- (b) The issuance of correction orders on the property.
- (c) An assessment of the overall impact of the variance on the municipality.

 Note: A copy of the municipal recommendation form, SBD-9890, is contained in ch. SPS 325 Appendix A.
- (3) DEPARTMENTAL ACTION. Where a municipality administers and enforces the code, the department shall decide petitions for variance and shall mail notification to the municipality and the applicant within 5 business days after receipt of the application and municipal recommendation. Where the department enforces the code, the department shall decide petitions for variance within 15 business days after receipt of the application and fees.
- (4) APPEALS. A person or municipality may appeal the determination of the department in the manner set out in s. 101.02 (6) (e) to (i) and (8), Stats.

- SPS 327.17 Municipal variance from the code. Any municipality exercising or intending to exercise jurisdiction under this code may apply to the department for a variance permitting the municipality to adopt an ordinance not in conformance with this code. The department shall review and make a determination on a municipal request to adopt an ordinance not in conformance with this code within 60 business days of receipt of the request.
- (1) APPLICATION FOR VARIANCE. The department may grant an application only under the following circumstances:
- (a) The municipality has demonstrated that the variance is necessary to protect the health, safety, or welfare of individuals within the municipality because of specific climate or soil conditions generally existing within the municipality.
- (b) The municipality has demonstrated that the granting of the variance, when viewed both individually and in conjunction with other variances requested by the municipality, does not impair the statewide uniformity of this code.
- (2) DEPARTMENTAL INQUIRY. Prior to making a determination, the department shall solicit within the municipality and consider the statements of any interested persons as to whether or not said application should be granted.
- (3) APPEALS. Any municipality aggrieved by the denial of an application may appeal the determination in accordance with the procedure set out in s. 101.02 (6) (e) to (i) and (8), Stats. The department shall review and make a determination on an appeal of denial of a municipal request to adopt an ordinance not in conformance with this code within 60 business days of receipt of the appeal.
- (4) UNIFORMITY. This section shall be strictly construed in accordance with the goal of promoting statewide uniformity.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.18 Appeals of orders, determinations, and for extension of time.

- (1) APPEALS OF ORDERS AND DETERMINATIONS BY A MUNICIPALITY EXERCISING JURISDICTION. Appeals of order or determination of a municipality exercising jurisdiction under this code, including denials of application for permits, shall be made in accordance with the procedure set out in ch. 68, Stats., prior to making an appeal to the department, except as provided in sub. (2).
- (2) APPEALS OF FINAL DETERMINATIONS BY A MUNICIPALITY EXERCISING JURISDICTION. Appeals of final determinations by municipalities shall be made to the department after the procedures prescribed in ch. 68, Stats., have been exhausted. All appeals to the department shall be in writing stating the reason for the appeal. All appeals shall be filed with the department within 10 business days of the date the final determination is rendered under ch. 68, Stats. The department shall render a written decision on all appeals within 60 business days of receipt of all calculations and documents necessary to complete the review.

- Note: Chapter 68, Stats., provides that municipalities may adopt alternate administrative appeal procedures that provide the same due process rights as ch. 68, Stats. Municipalities having adopted such alternate procedures may follow those alternate procedures.
- (3) APPEALS OF ORDERS AND DETERMINATIONS BY THE DEPARTMENT. Appeals of orders or determinations of the department made pursuant to the provisions of this code, including denials of application for permits, shall be in accordance with the procedure set out in s. 101.02 (6) (e) to (i) and (8), Stats. The department shall review and make a determination on an appeal of an order or determination within 60 business days of receipt of all calculations and documents necessary to complete the review.
- (4) EXTENSIONS OF TIME.
- (a) The time for correction of cited orders as set out in s. SPS 327.11 shall automatically be extended in the event that an appeal of the orders is filed. The extension of time shall extend to the termination of the appeal procedure and for additional time as the department or municipality administering and enforcing this code may allow.
- (b) The department or municipality administering and enforcing this code may grant additional reasonable time in which to comply with a violation order.

SPS 327.19 Adoption of standards.

- (1) CONSENT. Pursuant to s. 227.21 (2), Stats., the attorney general has consented to the incorporation by reference of the standards listed in Tables 327.19-1 to 327.19-7.
- (2) ADOPTION OF STANDARDS. The standards referenced in Tables 327.19-1 to 327.19-7 are incorporated by reference into this chapter.
 - Note: Copies of the adopted standards are on file in the offices of the department and the legislative reference bureau. Copies of the standards may be purchased, or are available for free, through the respective organizations or other information listed in Tables 327.19-1 to 327.19-7.
- (3) ALTERNATE STANDARDS.
- (a) Alternate standards that are equivalent to or more stringent than the standards incorporated by reference in this chapter may be used in lieu of incorporated standards when approved by the department or if written approval is issued by the department in accordance with par. (b).

(b)

1.

- a. Upon receipt of a fee and a written request, the department may issue an approval for the use of the alternate standard.
- b. The department shall review and make a determination on an application for approval within 40 business days of receipt of all forms, fees, and documents required to complete the review.
- 2. Determination of approval shall be based on an analysis of the alternate standard and the incorporated standard, prepared by a qualified independent third party or the organization that published the incorporated standard.
- 3. The department may include specific conditions in issuing an approval, including an expiration date for the approval. Violations of the conditions under which an approval is issued shall constitute a violation of this code.
- **4.** If the department determines that the alternate standard is not equivalent to or more stringent than the standards incorporated by reference, the request for approval shall be denied in writing.
- 5. The department may revoke an approval for any false statements or misrepresentations of facts on which the approval was based. The department may re-examine an approved alternate standard and issue a revised approval at any time.
- 6. Fees for review of standards under this paragraph shall be submitted in accordance with ch. SPS 302.

Table 327.19-1 - See PDF for table Table 327.19-2 - See PDF for table

Table 327.19-3 - See PDF for table 12 Table 327.19-4 - See PDF for table 12 Table 327.19-5 - See PDF for table 12 Table 327.19-6 - See PDF for table 12 Table 327.19-7 - See PDF for table 12

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

Subchapter II — Construction Standards

- **SPS 327.20** Loads and materials. Every camping unit shall be designed and constructed in accordance with the requirements of this section.
- (1) DESIGN LOAD. Every camping unit shall be designed and constructed to support the actual dead load and live loads acting upon it without exceeding the allowable stresses of the material. The construction of camping units shall result in a system that provides a complete load path capable of transferring all loads from point of origin through the load-resisting elements to the ground.
- (a) Dead loads. Every camping unit shall be designed and constructed to support the actual weight of all components and materials. Earth-sheltered camping units shall be designed and constructed to support the actual weight of all soil loads.
- (b) Live loads. Floors and ceilings shall be designed and constructed to support the minimum live loads listed in Table 327.20-1. The design load shall be applied uniformly over the component area.

Table 327.20-1 - See PDF for table

- (2) METHODS OF DESIGN. All camping units shall be designed by the method of structural analysis or the method of accepted practice specified in each part of this code.
 - Note: See ch. NR 116, rules of the department of natural resources, for special requirements relating to buildings located in flood plain zones. Information regarding the elevation of the regional flood may be obtained from the local zoning official.
- (3) STRUCTURAL STANDARDS.
- (a) General. Design, construction, installation, practice and structural analysis shall conform to the following nationally recognized standards.
- (b) Wood.
- 1. Structural lumber, glue-laminated timber, timber pilings, and fastenings shall be designed in accordance with the "National Design Specification for Wood Construction" and the "Design Values for Wood Construction," a supplement to the National Design Specification for Wood Construction, except the provisions of section 4.1.7 shall also apply to reused lumber. Reused lumber shall be considered to have a duration of load factor of 0.90.
- 2. Span tables for joists and rafters approved by the department may be used in lieu of designing by structural analysis.
- 3. Sawn lumber that is not graded in accordance with the standards under subd. 1., shall use the NDS published allowable design stresses for the lumber species using grade number 3 when used for studs, stringers, rafters or joists and may use grade number 1 when used for beams, posts, or timbers.
- (c) Whole logs. Camping units constructed of whole logs shall conform to ICC 400, Standard on the Design and Construction of Log Structures.

Note: This standard requires the minimum log diameter to be 8 inches.

- (d) Fasteners.
- 1. All building components shall be fastened to withstand the dead load and live load.
- 2. Fasteners shall comply with the schedule listed in Table 327.20-2, except other fastening methods may be allowed if engineered under s. SPS 327.20 (3).

Table 327.20-2 MINIMUM FASTENER SCHEDULE TABLE

Other interior and exterior panel products and finishes installed per manufacturer requirements. For engineered connectors, use manufacturer's specified fasteners.

<u>Description of Building Materials/Connection Number and Type of Fastener 123</u>

Floor Framing

Joist to joist, face nailed over support 3-8d

Joist to sill or girder, toe nail 3-8d

Band or rim joist to joist, end nail 3-16d

Band or rim joist to sill or top plate 2-16d at 16 o.c.

Bridging to joist, toe nail each end 2-8d

Built-up girder and beams, top loaded 10d at 32" o.c. at top and bottom and staggered and two at ends and at each splice

Built-up girder and beams, side-loaded 16d at 16" o.c. at top and bottom and staggered and two at ends and at each splice

Ledger strip to beam, face nail 3-16d each joist

Joist on ledger to beam, toe nail 3-8d

Wall Framing

Sole plate to joist or blocking, face nail 2-16d at 16" o.c.

Top or sole plate to stud, end nail 2-16d

Stud to sole plate, toe nail 3-8d or 2-16d

Doubled studs, face nail 10d at 24" o.c.

Doubled top plates, face nail 10d at 24" o.c.

Doubled top plates, minimum 24" offset of end joints, face nail 8-16d

in lapped area

Top plates, laps and intersections, face nail 2-10d

Continuous header, two pieces 16d at 16" o.c. along each edge

Continuous header to stud, toe nail 4-8d

1" corner brace to each stud and plate, face nail 2-8d or 2 staples, 1 3/4"

Built-up corner studs 10d at 24" o.c.

Roof/Ceiling Framing

Panel Sheathing

Spacing of Fastener

Intermediate

Material Fastener Edges Supports

Engineered wood panel for subfloor and roof sheathing and wall corner wind bracing to framing

5/16" to 1/2" 6d common or deformed nail or staple, 1 1/2" 6" 12"4

5 /8" to 3/4" 8d smooth or common, 6d deformed nail, or 6" 12"4 staple, 14 ga. 1 3/4"

7/8" to 1" 8d common or deformed nail 6" 12"

1 1 /8" to 1 1/4" 10d smooth or common or 8d deformed nail 6" 12"

Combination

subfloor/ underlayment

to framing

3/4" or less 6d deformed or 8d smooth or common nail 6" 12"

7/8" to 1" 8d smooth, common or deformed nail 6" 12"

11/8" to 11/4" 10d smooth or common or 8d deformed nail 6" 12"

Wood panel siding to framing

1/2" or less 6d corrosion-resistant siding and casing nails 6" 12"

5/8" 8d corrosion-resistant siding and casing nails 6" 12"

1/2" structural cellulosic 1 1/2" galvanized roofing nail; 8d common nail; 3" 6" fiberboard sheathing staple 16 ga., 1 1/2" long

25/32" structural cellulosic 1 3/4" galvanized roofing nail; 8d common nail; 3" 6" fiberboard sheathing staple 16 ga., 1 3/4" long

1/2" gypsum sheathings 1 1/2" galvanized roofing nail; 6d common nail; 4" 8" staple galvanized 1 1/2" long; 1 1/4" screws, Type W or S

5/8" gypsum sheathings 1 3/4" galvanized roofing nail; 8d common nail; 7" 7" staple galvanized 1 5/8" long; 1 5/8" screws, Type

W or S

- 1 All nails are smooth-common, box or deformed shank except where otherwise stated.
- 2 Nail is a general description and may be T-head, modified round head or round head.
- 3 Staples are 16-gauge wire, unless otherwise noted, and have a minimum 7/16" o.d. crown width,
- 4 Staples shall be spaced at not more than 10" o.c. at intermediate supports for floors.
- 5 Apply vertically 4" x 8" or 4" x 9" panels.
- (4) ALTERNATE MATERIALS AND STANDARDS. No part of this code is intended to prohibit or discourage use of alternate, equivalent materials or standards or the construction of innovative or nonconventional camping units.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.21 Exits, doors, and hallways shall be constructed as specified in this section.

(1) EXITS FROM THE FIRST FLOOR.

- (a) A first floor level shall have at least one exit door that discharges to grade. This exit may include interior or exterior stairs.
- (b) A first floor level shall have at least one egress window complying with sub. (3) on that floor level.
- (c) If a camping unit has more than one room on the first floor, the exit door and egress window shall be located in different rooms.
- (d) If there are bedrooms on the first floor, each must have an egress window that complies with sub. (3).
- (2) EXITS FROM LOFTS. At least one stairway or ladder exit shall be provided to the floor below for a loft.
- (3) WINDOWS USED FOR EXITING. Windows which are installed for exit purposes shall comply with the requirements of this subsection.
- (a) The window shall be openable from the inside without the use of tools or the removal of a sash. If equipped with a storm or screen, it shall be openable from the inside.

(b)

- 1. The nominal size of the net clear window opening shall be at least 20 inches by 24 inches irrespective of height or width. Nominal dimensions shall be determined by rounding up fractions of inches if they are 1/2-inch or greater or rounding down fractions of inches if they are less than 1/2-inch.
- 2. No portion of the window, including stops, stools, meeting rails, and operator arms, shall infringe on the required opening.
- (c) The area and dimension requirements of par. (b) may be infringed on by a storm window.
- (d) For any window used for exiting, the lowest point of clear opening shall be no more than 60 inches above the floor.
- (4) DOORS USED FOR EXITING.
- (a) A door used for exiting from a camping unit shall be a swing-type door at least 80 inches high by 32 inches wide.
- (b) All exit doors shall be openable from the interior without the use of a key.

 History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.22 Stairways and elevated areas.

- (1) HANDRAILS.
- (a) A flight of stairs with more than 3 risers shall be provided with at least one handrail for the full length of the flight.
- (b) Handrails shall be designed and constructed to withstand a 200 pound load applied in any direction.
- (c) Exterior handrails shall be constructed of metal, decay resistant or pressure-treated wood, or shall be protected from the weather.
- (2) GUARDS.
- (a) Except as provided in par. (b), all openings between floors, and open sides of landings, platforms, balconies, lofts, or porches that are more than 16 inches above grade or a floor shall be protected with guards.
- (b) For exterior applications, open sides of decks, landings, porches, or similar structures that are more than 24 inches above grade shall be protected with guards. The 24 inch vertical measurement shall be taken from the lowest point within 3 feet horizontally from the edge of the deck, landing, porch, or similar structure.
- (c) Guards shall be constructed to prevent the through-passage of a sphere with a diameter of 4 3/8 inches, when applying a force of 4 pounds.
- (d) This subsection does not apply to window wells, egress wells, and retaining walls.
 - History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.
- **SPS 327.23** Ladders which are used as part of a required exit shall be designed to withstand loads of at least 200 pounds.
 - History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.
- SPS 327.24 Ceiling height. All habitable rooms, kitchens, hallways, bathrooms, and corridors shall have a ceiling height of at least 7 feet, except as follows:

(1)

- (a) Rooms may have ceiling heights of less than 7 feet provided at least 50% of the room's floor area has a ceiling height of at least 7 feet. Any area with a ceiling height of less than 5 feet may be ignored in this calculation.
- (b) The 50% limit in par. (a) does not apply to subs. (3) to (7).
- (2) Beams and girders or other projections may project to no more than 8 inches below the required ceiling height.
- (3) The ceiling height extending back from the front edge of a water closet may slope to below 7 feet, but may not go below 5 feet until beyond the back of the water closet.
- (4) The ceiling height extending back from the front edge of a lavatory may be less than 7 feet, but may not go below 5 feet until beyond the back of the lavatory.
- (5) A ceiling height of less than 7 feet may be provided between the rear rim of a bathtub and a wall of the room abutting that rim, or between the side rim and a room wall abutting that rim.
- (6) A ceiling height of less than 7 feet may be provided between the rear wall of a shower stall and a wall of the room abutting that rear wall, or between the side wall of a shower and a room wall abutting that side wall.
- (7) A ceiling height of less than 7 feet may be provided in a loft used as a habitable room.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.25 Fireblocking.

- (1) FIREBLOCKING LOCATIONS. Fireblocking shall be provided in all of the following locations:
- (a) In concealed spaces of walls and partitions, including furred spaces, at the ceiling and floor levels.
- (b) At all interconnections between concealed vertical and horizontal spaces including the attachment between a carport and a camping unit.
- (c) In concealed spaces between stair stringers at the top and bottom of the run and at any intervening floor level.
- (d) At all openings around wires, cables, vents, pipes, ducts, chimneys, and fireplaces at ceiling and floor level.
- (2) FIREBLOCKING MATERIALS. Fireblocking shall consist of one of the following:
- (a) 2-inch nominal lumber.
- (b) Two layers of one-inch nominal lumber.
- (c) One thickness of 3/4-inch nominal plywood or wood structural panel with any joints backed with the same material.
- (d) One thickness of 1/2-inch gypsum wallboard, face nailed or face screwed to solid wood, with any joints backed with the same material.
- (e) Fiberglass or mineral wool batt insulation may be used if both of the following conditions are met:
- 1. The least dimension of the opening may not exceed 4 inches.
- 2. The batt shall be installed to fill the entire thickness of the opening or stud cavity.
- (f) For wires, cables, pipes, and vents only, non-shrinking caulk, putty mortar, or similar material may be used provided no dimension of the opening exceeds 1/2 inch around the penetrating object.
- (g) For chimneys, fireplaces, and metal vents, fireblocking shall be metal, cement board, or other noncombustible material.

History: EmR1703; emerg. cr., eff. 2-6-17; CR 17-017; cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.26 Smoke detectors.

- (1) A listed and labeled battery-operated smoke alarm shall be installed in all of the following locations:
- (a) If a camping unit has a loft, an alarm shall be installed inside the loft. An alarm is not required to be installed outside of the loft.

- (b) On a floor level that contains one or more sleeping rooms, an alarm shall be installed inside each sleeping room and an alarm shall be installed outside of the sleeping rooms.
- (c) An alarm shall be installed on a floor level that does not contain a sleeping room.
 - Note: Section 101.645 (3), Stats., requires the owner of a dwelling to install a functional smoke detector in the basement of the dwelling and on each floor level except the attic or storage area of each dwelling unit. The occupant of such a dwelling unit shall maintain any smoke detector in that unit, except that if any occupant who is not the owner, or any state, county, city, village or town officer, agent or employee charged under statute or municipal ordinance with powers or duties involving inspection of real or personal property, gives written notice to the owner that the smoke detector is not functional the owner shall provide, within 5 days after receipt of that notice, any maintenance necessary to make that smoke detector functional.
- (2) Smoke alarms and detectors shall be installed and maintained in accordance with the manufacturer's specifications. Interconnection of smoke alarms and detectors is not required.

SPS 327.27 Carbon monoxide alarms.

- (1) GENERAL. A listed and labeled carbon monoxide alarm shall be installed within 10 feet of a fireplace or fuel-burning appliance.
- (2) ELECTRICAL SERVICE. If electrical service for a camping unit is provided by a public utility, a carbon monoxide alarm required under sub. (1) shall be continuously powered by the camping unit electrical service and shall have a backup battery power supply.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.28 Protection against decay and termites.

- (1) Wood used in any of the applications under this section shall meet all of the following requirements:
- (a) The wood shall be labeled and pressure treated with preservative in accordance with an AWPA standard or shall be naturally durable and decay-resistant or shall be engineered to be decay resistant.
- (b) The wood shall be pressure treated with preservative or shall be naturally termite-resistant unless additional steps are taken to make the wood termite-resistant.
- (2) Wood used in the following locations shall be as required under sub. (1):
- (a) Resting directly upon or embedded in earth.
- (b) Floor joists or sleepers that meet all of the following conditions:
- 1. The joists or sleepers are protected from the weather.
- 2. The joists or sleepers are within 18 inches above a lower floor surface, deck or soil.
- (c) Floor joists exterior to the camping unit that are within 18 inches above exterior grade, unless protected with a moisture barrier.
 - **Note:** Acceptable moisture barriers for this application include 3/4 -inch exterior preservative-treated plywood, or ice dam protection material listed as meeting the requirements of ASTM D 1970 or vapor retarder material, provided they are protected from physical and UV light damage.
- (d) Girders that span directly over and within 12 inches of earth.
- (e) Sills and rim joists that rest on concrete or masonry and are also below grade or within 8 inches above final exterior grade.

(f)

- 1. Siding and sheathing in contact with concrete, masonry, or earth and within 6 inches above final exterior grade.
- 2. Siding and sheathing in contact with concrete or masonry and within 2 inches above an impervious surface.
- (g) Ends of wood structural members and their shims resting on or supported in masonry or concrete walls and having clearances of less than 1/2 inch on the top, sides, and ends.
- (h) Bottom plates or sole plates of walls that rest on concrete or masonry and that are below exterior grade or less than 8 inches above final exterior grade.
- (i) Columns in direct contact with concrete or masonry unless supported by a structural pedestal or plinth block at least one inch above the floor,

- (j) Any structural part of an outdoor deck, including the decking.
- (k) Permanent wood foundations.
- (3) Wood girders that rest directly on exterior concrete or masonry shall be protected by one of the following methods:
- (a) The wood shall be pressure treated with preservative or shall be a naturally durable and decay-resistant species.
- (b) Material, such as pressure-treated plywood, flashing material, steel shims, or water-resistant membrane material shall be placed between the wood and the concrete or masonry.
- (4) All pressure-treated wood and plywood shall be identified by a quality mark or certificate of inspection of an approved inspection agency which maintains continued supervision, testing, and inspection over the quality of the product.
 - Note: Heartwood of redwood, cypress, black walnut, catalpa, chestnut, sage orange, red mulberry, white oak, or cedar lumber are considered by the department to be naturally decay-resistant. Heartwood of bald cypress, redwood, and eastern red cedar are considered by the department to be naturally termite resistant.

(5)

- (a) Fasteners for pressure-preservative treated wood and fire-retardant-treated wood shall meet one of the following requirements:
- 1. The fastener is a steel bolt with a diameter of 1/2 inch or greater.
- 2. The fastener is made of stainless steel.
- 3. The fastener is made of hot-dipped, zinc-galvanized steel with the coating weight and thickness labeled as complying with ASTM A 153.
- **4.** The fastener is made of steel with a mechanically-deposited zinc coating labeled as complying with ASTM B 695, Class 55 or greater.
- 5. The fastener has coating types and weights in accordance with the fastener manufacturer's recommendations. In the absence of the manufacturer's recommendations subd. 1., 2., 3., or 4. shall apply.
 - Note: "Zinc plated," "zinc coated," "chrome plated," etc., fasteners do not necessarily comply with either of these standards.
- (b) When a fastener is used with a hanger or other metal fixture, the fastener shall be of the same material as the hanger or metal fixture.
 - Note: When separate pieces are in close contact, zinc corrodes rapidly in the presence of plain steel. Zinc corrodes much more rapidly in the presence of stainless steel.
- (c) For the purposes of this section, a fastener includes nails, screws, and bolts with nuts and washers. History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017; cr. Register March 2018 No. 747, eff. 4-1-18.
- **SPS 327.29** Floor design. Floors shall support all dead loads plus the minimum unit live loads as set forth in s. SPS 327.20. The live loads shall be applied to act vertically and uniformly to each square foot of horizontal floor area.
 - History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.
- SPS 327.30 Wood floors in contact with the ground. Wood floors in contact with the ground shall be designed and constructed in accordance with the wood-foundation standards adopted in Table 327.19-2. History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.
- **SPS 327.31** Wood frame floors. Unless designed through structural analysis, wood frame floors shall comply with the following requirements:
- (1) FLOOR JOISTS.
- (a) Floor joists shall comply with the structural requirements and live load determination under s. SPS 327.20.
- (b) Where the joists of a floor system are parallel to, and located between bearing walls above and below, the joists shall be doubled.
- (2) FLOOR TRUSSES. Metal plate connected wood floor trusses shall be designed in accordance with the Design Specifications for Metal Plate Connected Parallel Chord Wood Trusses and the National Design Specification for Wood Construction. Truss members shall not be cut, bored or notched.

- (3) GIRDERS AND BEAMS.
- (a) Wood girders and beams shall be fitted at the post or column. Adjoining ends shall be fastened to each other to transfer horizontal loads across the joint. Beams shall also be fastened to the posts with framing anchors, angle clips, or equivalent.
- (b) Where intermediate beams are used, they shall rest on top of the girders; or shall be supported by ledgers or blocks fastened to the sides of the girders; or they may be supported by approved metal hangers into which the ends of the beams shall be fitted.
- (c) Lateral restraint for all wood beams shall be provided at all columns using a saddle or other approved connection where the beam meets one of the following conditions:
- 1. The beam is not restrained at both ends.
- 2. The beam is more than 11 1/4 inches deep using actual measurement.

 Note: A saddle supports the beam on the bottom and allows for the through-connection of fasteners into the side of the beam.
- (4) BEARING AND END CONFIGURATION.
- (a) Sawn lumber.
- 1. 'Joists.' Wood joists made of sawn lumber shall meet the following bearing requirements:
- **a.** Wood joists supported on wood or metal shall have a bearing surface of at least 1 1/2-inches measured from the end of the joist.
- b. The tail end of a floor joist may not extend past the edge of a beam by more than the depth of the floor joist.
- c. Wood floor joists with ends that intersect over a beam shall have the ends overlap at least 3 inches and be securely fastened together with at least two 12d common nails or the ends shall be butt-jointed or face-jointed and fastened with ties, straps, plates or solid blocking.
- 2. 'Beams and girders.' Beams and girders made of sawn lumber shall have a bearing surface on their supports of at least 3 inches parallel to the beam or girder and be at least as wide as the beam or girder.
- **(b)** Engineered wood products. Bearing surface for engineered wood products shall be in accordance with the manufacturer's instructions provided those instructions were developed through structural analysis or product testing and are applicable to the configuration.
- (5) NOTCHING AND BORING. Notching and boring of beams or girders is prohibited unless determined through structural analysis.
- (a) Notching of floor joists.
- 1. Notches located in the top or bottom of floor joists shall not have a depth exceeding 1/6 the depth of the joist, shall not have a length exceeding 1/3 the joist depth nor be located in the middle 1/3 of the span of the joist.
- 2. Where floor joists are notched on the ends, the notch shall not exceed 1/4 the depth of the joist. Notches over supports may extend the full bearing width of the support.
- **(b)** Boring of floor joists.
- 1. 'General.' A hole may not be bored in a floor joist within 2 inches of a notch or another hole. In no case shall the distance between adjacent holes be less than the diameter of the larger hole.
- 2. 'Holes near the edge.' Holes bored in the top or bottom 2 inches of a joist shall follow the limitations for notching under par. (a).
- 3. 'Other holes.' Holes bored in floor joists that are not within 2 inches of the top or bottom of the joist shall have their diameter limited to 1/3 the depth of the joist.
- (c) Engineered wood products. Notching or boring of engineered wood products shall be done in accordance with the manufacturer's instructions provided those instructions were developed through structural analysis or product testing.
- (6) OVERHANG OF FLOORS.

- (a) General. Except as provided in pars. (b) and (c), a floor joist overhang shall be cantilevered beyond the outer edge of the supporting wall below it by no more than the actual depth of the joist or shall be designed through structural analysis in accordance with s. SPS 327,20 (3).
- (b) Joist overhangs parallel to the main floor framing system. Joist overhangs that are extensions of, and parallel to, the main floor framing system may extend beyond the depth of the joist without structural analysis provided they meet all of the following conditions:
- 1. The overhang is cantilevered no more than 2 feet beyond the outer edge of the supporting wall below it.

2.

- a. The overhang supports a uniform load limited to the weight of the bearing wall and the tributary roof area above it.
- **b.** The tributary length of the roof area, excluding the eave overhang, is no more than 2 feet greater than the actual length of the joist directly below.
- c. The eave overhang is no more than 2 feet.

Note: The tributary length is usually half the span of the joist or rafter.

3. The joist overhang does not support any concentrated loads. For the purposes of this subsection, a framed opening in the wall with a rough opening of 4 feet or less shall be considered uniform loading.

4.

- **a.** The cantilevered joist is doubled at the supporting wall.
- **b.** The doubled joist length extends inward beyond the inner edge of the supporting wall by the same distance as the cantilever.
- c. The added joist member is secured to the main joist.
- (c) Joist overhangs perpendicular to the main floor framing system. Joist overhangs that are perpendicular to the main floor framing system, or lookout joists, may extend beyond the depth of the joist without structural analysis provided they meet all of the following conditions:
- 1. The joist overhang is cantilevered no more than 2 feet beyond the outer edge of the supporting wall below it.

2.

- **a.** A double floor joist is used to support the lookout joist.
- **b.** The double floor joist is located a distance of at least 2 times the cantilever length inward from the outer edge of the supporting wall below.
- c. The lookout joists are fastened to the double joist with metal hangers.
- 3. The joist overhang supports no more than either a non-bearing wall or a wall that supports only a roof which spans no more than the floor overhang cantilever length plus the eave overhang.
- (d) Other joist overhangs. All overhangs longer than the depth of the supporting joist that do not meet all of the conditions under par. (b) or (c) shall be designed through structural analysis.
- (7) FLOOR OPENINGS. Trimmers and headers shall be doubled when the span of the header exceeds 4 feet. Headers which span more than 6 feet shall have the ends supported by joist hangers or framing anchors, unless the ends are supported on a partition or beam. Joists more than 8 feet long that frame into headers shall be supported on metal framing anchors or on ledger strips of at least 2 inches by 2 inches nominal.
- (8) FLOOR SHEATHING, BOARDS AND PLANKS.
- (a) Plywood sheathing. Plywood sheathing used for floors shall be limited to the allowable loads and spans shown in Table 327.31-A.
- **(b)** Combination subfloor-underlayment. Combination subfloor-underlayment shall be installed in accordance with Table 327.31-B.
- (c) Floor boards. Where wood boards are used for floor sheathing, the boards shall comply with the minimum thicknesses shown in Table 327.31-C.

- (d) Planks. Planks shall be tongue and groove or splined and at least 2 inches, nominal, in thickness. Planks shall terminate over beams unless the joints are end matched. The planks shall be laid so that no continuous line of joints will occur except at points of support. Planks shall be nailed to each beam.
- (9) BRIDGING.
- (a) Sawn lumber. Bridging shall be provided for sawn lumber framing at intervals not exceeding 8 feet where the nominal depth to thickness ratio is greater than 4 to 1.
 - **Note:** This 4:1 ratio means bridging is required for wood-framed floors having nominal 2X10 or deeper solid-sawn-lumber joists, to provide restraint against rotation or lateral displacement.
- **(b)** Engineered products. Bridging shall be provided for engineered framing products in accordance with the manufacturer's recommendations.
- (10) SILL PLATES. All of the following requirements apply to a sawn-lumber sill plate with uniform loading that is partially extended beyond the load-bearing surface of a foundation wall in order to put the exterior surface of an upper-lying wall flush with or beyond the exterior surface of insulation that is placed on the outside of the foundation wall:
- (a) The center of any anchor bolt shall be set back from the side edge of the sill plate by a distance of at least 4 times the diameter of the bolt.
- **(b)** The thickness of the concrete or mortar cover around any anchor bolt shall comply with ACI 318 section 7.7.
 - Note: Under ACI 318 section 7.7, the minimum cover for a 5/8-inch-diameter or smaller bolt is 1 1/2 inches.
- (c) With wood floor joists that are parallel to the foundation wall, the sill plate may not extend beyond the load-bearing surface of the wall by more than one-half of the nominal thickness of the joist that bears on the sill plate.
- (d) As used throughout this subchapter and in the standards that the subchapter incorporates by reference, the shorter side of the cross-sectional area of a wood member is the thickness of the member. The longer side of the cross-sectional area is the depth, when the longer side is vertical; and it is the width when the longer side is horizontal.

Note: Under sub. (6), wood floor joists that are perpendicular to the foundation wall can extend beyond the foundation wall by a distance of up to the depth of the joist.

Table 327.31-A

ALLOWABLE SPANS FOR PLYWOOD FLOOR SHEATHING CONTINUOUS OVER TWO OR

MORE SPANS AND FACE GRAIN PERPENDICULAR TO SUPPORTS1

Span Rating2 Plywood Thickness Maximum span3

32/16 15/32", 1/2", 5/8" 16"5

40/20 19/32", 5/8", 3/4", 7/8" 20" 4,5

48/24 23/32", 3/4", 7/8" 24"

- 1 These values apply to C-D, C-C, and Structural I and II grades only. Spans shall be limited to values shown because of possible effect of concentrated loads.
- 2 Span Rating appears on all panels in the construction grades listed in footnote 1.
- 3 Plywood edges shall have approved tongue and groove joints or shall be supported with blocking, unless 1/4 inch minimum thickness underlayment or 1 1/2 inches of approved cellular or lightweight concrete is installed or finished floor is 25/32-inch wood strip. Allowable uniform load based on deflection of 1/360 of span is 165 pounds per square foot.
- 4 For joists spaced 24 inches on center, plywood sheathing with Span Rating 40/20 or greater can be used for subfloors when supporting 1 1/2 inches lightweight concrete.
- 5 May be 24 inches if 25/32-inch wood strip flooring is installed at right angles to joists.

Table 327.31-B

MINIMUM THICKNESS FOR PLYWOOD COMBINATION SUBFLOOR-UNDERLAYMENT. PLYWOOD CONTINUOUS OVER TWO OR MORE SPANS AND FACE GRAIN PERPENDICULAR TO SUPPORTS_{1,2}

Maximum Support Spacing3

16" o.c 20" o.c 24" o.c

Plywood Panel Panel Panel

Species Thickness Thickness

Plywood Grade Group (inches) (inches)

Sanded exterior type 1 1/2 5/8 3/4

2 & 3 5/8 3/4 7/8

4 3/4 7/8 1

Underlayment C-C All Groups APA Rated Sheathing and APA Rated

Plugged Sturd-I-Floor Sturd-I-Floor shall be installed consistent

with their rating.

- 1 Spans shall be limited to values shown, based on possible effect of concentrated loads.
- 2 Unsupported edges shall be tongue and groove or blocked except where 1/4 inch underlayment or 25/32-inch finish floor is used.
- 3 Underlayment, C-C Plugged, sanded exterior type: allowable uniform load based on deflection of L/360 span for spans 24 inches or less is 125 psf; and for spans 48 inches, 65 psf.
- 4 The department will accept subfloor underlayment panels such as Sturd-I-Floor which meet the requirements of APA manufacturing specifications for Sturd-I-Floor panels.

Table 327.31-C

MINIMUM THICKNESS OF FLOOR BOARDS

Minimum Net Thickness

Joist Spacing Perpendicular to Joist Diagonal to Joist

24" 11/16" 3/4"

16" 5/8" 5/8"

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18; (6) (d) (title) created under s. 13.92 (4) (b) 1., Stats., Register March 2018 No. 747.

- SPS 327.32 Decks. A deck attached to a camping unit or any detached deck that serves an exit from a camping unit that meets the following requirements is in compliance with this code:
- (1) A deck shall be constructed to support the actual dead load and a minimum live load of 40 pounds per square inch acting on it without exceeding the allowable stresses of the material.
- (2) A deck attached to a camping unit shall have a ledger attachment that meets the requirement under sub. (1).
- (3) Corrosion-resistant flashing shall be installed where a deck attaches to the wall or floor assembly of a camping unit.
- (4) The handrail and guard requirements of s. SPS 327.22.
- (5) The decay protection requirements of s. SPS 327.28.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.33 Exterior covering.

- (1) GENERAL. The exterior walls shall be covered with a permanent weather resistant finish.
- (2) DURING CONSTRUCTION. During construction, wall cavity insulation may not be installed until a water-resistant covering is in place over the wall cavity and windows, doors and a roof with at least underlayment are installed.

Note: An example of acceptable water-resistant covering for a wall is foam sheathing with permanently taped joints.

- (3) FLASHING.
- (a) Corrosion-resistant flashing shall be installed in the exterior wall to prevent water from entering the wall cavity or coming in contact with the structural framing components.

- (b) The flashing shall extend to the surface of the exterior wall finish and prevent water from reentering the exterior wall.
- (c)
- 1. Any joints between 2 pieces of flashing that form a vertical joint shall be lapped a minimum of 6 inches and sealed.
- 2. Any joints between 2 pieces of flashing that form a horizontal joint shall be lapped a minimum of 2 inches and sealed unless otherwise specified by the flashing manufacturer.
- 3. Sealants used for flashing shall be exterior grade and shall be compatible with the materials being sealed.
- (d) Flashing shall be provided at all of the following locations:
- 1. At the top of all exterior door and window openings, unless using self-flashing windows that provide at least one inch of flashing around the opening, including the corners.
- 2. At the intersection of chimneys or other masonry construction with frame walls.
- 3. Under and at the ends of masonry, wood, or metal copings and sills.
- 4. Continuously above all projecting wood trim.
- 5. Where porches, decks, or stairs attach to a wall or floor assembly of wood frame construction.
- 6. At wall and roof intersections.
- 7. At built-in gutters.
- 8. Along the bottom of door openings that are elevated above-grade.
 - Note: Flashing placed along the bottom of a door opening that is elevated above-grade can subsequently accommodate adding a deck outside the door.
- (e) For a roof that intersects with an upper-lying head wall and rake wall, such as where a dormer is provided, the vertical metal flashing along the rake wall shall extend down the roof at least one-half inch past the vertical flashing on the head wall. A head wall as addressed in this paragraph intersects a sloping roof at a horizontal line along the top of a roof segment. A rake wall intersects a sloping roof along the side of a roof segment.
- (f) For a roof eave that intersects with a sidewall, the end of the roof flashing shall be installed so that it diverts water away from the sidewall and onto the roof or into the gutter.
- (4) WATER-RESISTIVE BARRIER REQUIREMENTS.
- (a) General.
- 1. Exterior walls of wood or metal frame construction shall be provided with a water-resistive barrier from the highest point to the bottom of the permanent weather-resistant covering.
 - Note: Acceptable water-resistive barrier materials include polymeric-based house wraps and spray-applied water-resistive barriers installed per the manufacturer's instructions, #15 or greater asphalt-saturated felts that comply with ASTM D 226 for type I felt and extruded foam sheathing with permanently taped joints. Duct tape or similar materials will not result in a permanently taped joint.
- 2. Structural products with an integral water-resistive barrier may be approved as a complete assembly.
- (b) Material compatibility. The water-resistive barrier material shall be compatible with the other materials in the wall with which it will come into contact.

Note: Spray-applied water-resistive barriers may not be compatible with foam plastic insulation.

- (c) Performance requirements.
- 1. Polymer-based house wraps shall meet all of the following requirements:
- a. A water vapor permeability rating of 5 perms or higher when tested in accordance with ASTM E96.
- **b.** An acceptable water-resistance rating determined in accordance with ASTM D779, AATCC 127 or CCMC 07102.

Note: Asphalt-saturated felt or "tar paper" is not a polymeric-based house wrap.

Note: For more information on the water-resistance tests and their results, see the International Code Council Evaluation Services Acceptance Criteria AC 38.

2. Spray-applied water-resistive barriers shall be approved under the International Code Council Evaluation Services.

Note: For approval criteria, see ICC-ES acceptance criteria AC 212 or successor document.

- (d) Application.
- 1. Horizontal seams in sheet or strip material shall be overlapped such that the upper layer extends over the lower layer at least 2 inches.
- 2. Vertical seams in sheet or strip materials shall be overlapped at least 6 inches.
- 3. Any rips, tears or voids shall be patched in accordance with subds. 1. and 2.
- (e) Penetrations.
- 1. Penetrations caused by fasteners of the water-resistive barrier or the weather-resistant exterior covering do not require sealing.
- 2. Penetrations of 5 square inches or less with an annular space of no more than 1/2 inch shall be sealed with caulk or similar material.
- 3. Penetrations of greater than 5 square inches shall be flashed in accordance with sub. (3). History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.
- SPS 327.34 Wood frame walls. Unless designed through structural analysis, wood frame walls shall comply with the following requirements:
- (1) STUD CONFIGURATION. Studs in the exterior walls shall be placed with the wide faces perpendicular to the plane of the wall.

Note: See s. SPS 327.28 for requirements on treating wood for decay and termite resistance.

- (2) TOP PLATES.
- (a) General. Except as allowed under par. (c), top plates shall be provided and configured as follows:
- 1. Studs at bearing walls shall be capped with double top plates.
- 2. End joints in double top plates shall be offset at least 2 stud spaces.
- 3. Double top plates shall be overlapped at the corners and at intersections of partitions.
- 4. The plate immediately above the stud may have a joint only when directly over the stud.
- **(b)** Notching and boring.
- 1. When piping or ductwork is placed in an exterior wall or an interior load-bearing wall, such that at least half of the top plate is removed, the plate shall be reinforced with a steel angle at least 2 inches by 20 gauge thick.

Note: 20 gauge is approximately 0.036 inch.

- 2. The steel angle shall span the gap and extend at least to the midpoint of the adjacent stud spaces.
- 3. Other equivalent materials may be used in accordance with s. SPS 327.20.
- (c) Exceptions.
- 1. A single top plate may be used in place of a double top plate provided a rafter is located directly over the studs and the plate is securely tied at the end joints, corners and intersecting walls. Joints may occur in single top plates only when directly over a stud.
- 2. A continuous header, consisting of two 2-inch members set on edge, may be used in lieu of a double plate if tied to the adjacent wall.
- (3) WALL OPENINGS.
- (a) Headers. Where doors or windows occur, headers shall be used to carry the load across the opening.
- (b) Header support. Headers in bearing walls shall be supported in accordance with the following:
- 1. Headers 3 feet or less in length shall be directly supported on each end by one of the following:
- **a.** The single common stud and a shoulder stud.
- **b.** The single common stud with a framing anchor attached.

- 2. Headers greater than 3 feet but less than or equal to 6 feet in length shall be directly supported on each end by the single common stud and a shoulder stud.
- 3. Headers greater than 6 feet in length shall be directly supported on each end by the single common stud and 2 shoulder studs.
- (4) NOTCHING. Notching and boring of columns or posts is prohibited unless designed through structural analysis. Studs shall not be cut or bored more than 1/3 the depth of the stud, unless the stud is reinforced.
- (5) PARTITIONS. Load-bearing partitions shall be placed over beams, girders, or other load-bearing partitions. Load-bearing partitions running at right angles to the joists shall not be offset from the main girder or walls more than the depth of the joist unless the joists are designed to carry the load.
- (6) POSTS AND COLUMNS.
- (a) General.
- 1. Posts and columns shall be installed to resist imposed loads.
- 2. Posts and columns shall bear directly over the middle 1/3 of a footing.
- 3. Posts and columns shall be restrained at the top and bottom to resist displacement.
- 4. All columns shall be positively attached to the beams they support using clips, straps or saddles.
- 5. Posts and columns that use a height adjustment mechanism shall have the mechanism imbedded in concrete or permanently disabled after installation.
- (b) Bearing surface. Posts and columns shall have a steel bearing plate affixed to one or both ends to distribute any applied loads and to prevent fiber crushing of any structural member being supported.
- (c) Steel posts or columns. Steel posts or columns shall be sized according to one of the following methods:
- 1. Manufactured columns shall follow the manufacturer's testing and listing.
- 2. Columns made of steel stock, not meeting the requirements of subd. 1., shall follow a nationally accepted design specification or the size shall be determined through structural analysis or load testing.
- (d) Wood posts or columns. Wood posts or columns shall be sized according to Table 327.34 or the size shall be determined through structural analysis or load testing.
- (7) FOUNDATION CRIPPLE WALLS.

12 13,300

- (a) Foundation cripple walls shall be framed with stude at least as large as the stude above.
- (b) When more than 4 feet in height, cripple walls shall be framed with study needed for an additional floor level.
- (c) Cripple walls shall be sheathed on at least one side for its entire length with a wood structural panel that is fastened to both the top and bottom plates or the cripple walls shall be constructed of solid blocking.
- (d) Cripple walls shall be fully supported by a continuous foundation.

Table 327.34 WOOD COLUMNS

Wood Nominal Size Cross Section Area Height (feet) Allowable Load (pounds)

8 4,900

4" x 4" 12 1/4" 10 3,100

12 2,150

8 7,700

4" x 6" 19 1/4" 10 4,900

12 3,400

8 30,000

6" x 6" 30 1/4" 10 18,900

Note: This Table is based on a modulus of elasticity or E of 1,000,000 psi and a fiber bending strength or Fb of 1,000 psi.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.35 Roof design and framing.

- (1) ROOF RAFTERS.
- (a) General.
- 1. Rafters shall be notched to fit the exterior wall plate and fastened to the wall.
- 2. Collar ties shall be installed on the upper third of every third pair of abutting roof rafters or every 48 inches, whichever is less.
- (b) Ridge boards.
- 1. Where rafters meet to form a ridge, the rafters shall be attached to a ridge board.
- 2. The ridge board shall have a depth at least equal to the length of the cut end of the rafter abutting it.
- 3. Where all rafters are placed directly opposite each other or are offset at the ridge board by less than the thickness of the rafter, the ridge board shall have a nominal thickness of at least 1 inch.
- 4. Where one or more rafters are offset at the ridge board by more than the thickness of the rafter, the ridge board shall have a nominal thickness of at least 2 inches.
- (c) *Ridge beams*. Rafters shall be attached to ridge beams using engineered clips, straps, or hangers or the connection shall be designed through structural analysis.
- (d) Bearing. The required bearing for wood rafters shall be in accordance with the NDS adopted in Table 327.19-2, except in no case shall the bearing be less than 1 1/2 inches on wood or metal or less than 3 inches on masonry or concrete.
- (e) Ladders.
- 1. In this paragraph, "ladder" means a perpendicular projection extending beyond the face of the wall below.
- 2. Overhangs at gable end walls of more than 12 inches shall be provided with ladders which extend into the structure a distance no less than the length of the overhang.
- 3. The ladders shall be fastened at the wall.
- 4. The interior end of each ladder shall be attached to a rafter or truss with a hanger.
- (2) CEILING JOISTS.
- (a) Ceiling joists shall be nailed to exterior walls and to the ends of rafters.
- (b) Ends of ceiling joists shall be lapped at least 3 inches and be fastened either with 3-16d nails or in accordance with the floor joist requirements under s. SPS 327.31 (4) (a) 1, c.
- (c) Where ceiling joists are placed at right angles to the rafters, the lookout joist or ties shall be fastened to the parallel ceiling joists or rafters using engineered clips, straps or hangers or the connection shall be designed through structural analysis.
- (3) VALLEY AND HIP RAFTERS.
- (a) Valley rafters.
- 1. Where no bearing is provided under valley rafters at the intersection of 2 roof areas, the valley rafters shall be doubled in thickness and shall be at least 2 inches deeper than the required common rafter to permit full bearing at the beveled end.
- 2. Where ridges are provided at different elevations, vertical support shall be provided for the interior end of the lower ridge board or ridge beam.
- (b) Hip rafters. Where no bearing is provided under hip rafters, the hip rafters shall be of the same thickness as common rafters and shall be at least 2 inches deeper than required to permit full contact with the jack rafter.
- (4) ROOF TRUSSES.
- (a) Metal plate connected wood roof trusses shall be designed in accordance with TPI 1 and the NDS adopted under s. SPS 327.19,
- (b) Truss members shall not be cut, bored or notched, except as allowed under sub. (5) (d).
- (c) If connection is provided to stabilize a non-load bearing wall, a slotted expansion joint or clip shall be used.

- (5) NOTCHING AND BORING.
- (a) General.
- 1. Notching and boring of beams or girders is prohibited unless determined through structural analysis.
- 2. Notching and boring of ceiling joists and rafters shall comply with pars. (b) and (c).
- (b) Notching.
- 1. Notches located in the top or bottom of ceiling joists and rafters are prohibited from all of the following:
- a. Having a depth exceeding 1/6 the depth of the member.
- **b.** Having a length exceeding 1/3 the depth of the member.
- c. Being located in the middle 1/3 of the span of the member.
- 2. Where ceiling joists or rafters are notched at the ends, the notch may not exceed 1/4 the depth of the member.
- 3. Bird mouth cuts may not exceed 1/3 the depth of the rafter unless the seat cut bears fully on the wall plate.
- (c) Boring.
- 1. Holes bored within 2 inches of the top or bottom of ceiling joists or rafters may not be located in the middle 1/3 of the span of the member.
- 2. The diameter of a hole may not exceed 1/3 the depth of the member.
- 3. A hole may not be bored within 2 inches of a notch or another hole.
- 4. The distance between adjacent holes may not be less than the diameter of the larger hole.
- (d) Engineered wood products. Notching or boring of engineered wood products shall be done in accordance with the manufacturer's instructions provided those instructions were developed through structural analysis or product testing.
- (6) ROOF SHEATHING, BOARDS AND PLANKING.
- (a) Structural sheathing. The allowable loads and spans for structural sheathing shall be in accordance with the grade stamp on the panel.
- **(b)** Roof boards.
- 1. Where the rafter spacing is 24 inches on center or less, roof boards may be used that have a minimum thickness of 5/8-inch for solid sheathing and 3/4-inch for spaced sheathing.
- 2. Where the rafter spacing is greater than 24 inches on center, roof boards shall be tongue and groove, at least 1 1/2 inches thick.
- (c) Roof planks.
- 1. Roof planks shall be tongue and groove or splined and at least 2 inches, nominal, in thickness.
- 2. Planks shall terminate over beams unless the joints are end matched.
- 3. The planks shall be laid so that no continuous line of joints will occur except at points of support.
- 4. Planks shall be nailed or fastened to each beam.

SPS 327.36 Weather protection for roofs.

- (1) GENERAL.
- (a) All roofs shall be designed and constructed to assure drainage of water.
- (b) All fasteners shall be corrosion resistant.
- (2) UNDERLAYMENT FOR SHINGLES. Underlayment consisting of number 15 asphalt-impregnated felt paper or equivalent or other type I material that shows no water transmission when tested in accordance with ASTM D 226 or ASTM D 4869 shall be provided under shingles. Underlayment materials meeting the requirements of ASTM D 1970 meet the performance requirements of this subsection.
- (3) ASPHALT SHINGLES.
- (a) General.

- 1. Shingles that have a self-sealing adhesive strip shall include a sealant which has an average bond strength of at least 1 1/2 pounds per 3 3/4 inches of shingle width, at 32 degrees Fahrenheit. The department will accept results of testing conducted in accordance with an approved test method for verifying compliance with the sealant uplift resistance required in this paragraph. Information on the applicable test method may be obtained from the department.
- 2. Each shingle package shall be labeled by the manufacturer to indicate conformance to the applicable ASTM standard for each type of shingle or the exception in par. (b).
- 3. Shingles shall be installed in accordance with the manufacturer's recommendations.
- 4. Shingles shall have at least 4 fasteners per strip shingle or 2 fasteners per interlocking shingle, unless the manufacturer has other specifications.
- 5. Shingle head lap shall be at least 2 inches, unless the manufacturer has other specifications.
- 6. All fasteners for shingles shall be corrosion-resistant.
 - Note: See s. SPS 327.08 (54) for definitions of shingle terms.
 - Note: Section SPS 327.04 (2) requires compliance with all parts of this code, including these roofing provisions, for an alteration to any camping unit that is regulated under this code.
- **(b)** Fiberglass shingles. Fiberglass asphalt shingles shall conform to ASTM D 3462 except that laminated shingles shall have a tear strength of at least 1450 grams in each ply.
- (4) OTHER ROOF COVERINGS. All roof coverings not otherwise addressed in this section shall be installed in accordance with the manufacturer's instructions or a national standard recognized by the department.
- (5) REROOFING. New roof coverings may not be installed over existing roof coverings where any of the following conditions exist:
- (a) The existing roof or roof covering is water-soaked or has deteriorated such that it is inadequate as a base for additional roofing.
- (b) The existing roof is wood shake, slate, clay, cement, or asbestos-cement tile.
- (c) The existing roof has 2 or more applications of any type of permanent roof covering.
- (6) FLASHING.
- (a) General. Flashing shall be installed at the junction of chimneys and roofs, in all valleys, and around all roof openings.
- **(b)** Flashing of open valleys.
- 1. Open valleys shall be flashed with at least No. 28 gauge corrosion-resistant sheet metal, 16 inches wide, or a layer of at least 50-pound roll roofing, 16 inches wide, placed over a layer of number 15 roofing underlayment.
- 2. Flashing sections shall be overlapped by at least 4 inches.
- (c) Flashing of closed valleys. Where shingles are laced or woven over the valley, the valley shall be flashed with one of the following:
- 1. At least one layer of 50-pound roofing, at least 20 inches wide, over a layer of number 15 roofing underlayment.
- 2. A product labeled as meeting the requirements of ASTM D1970.
- (d) Chimney flashing.
- 1. Chimneys shall be flashed and counter-flashed to a height of at least 6 inches.
- 2. Chimney crickets or saddles shall be installed where the upper side of a chimney is more than 30 inches wide on a sloping roof.
- 3. The intersection of the cricket and the chimney shall be flashed and counter-flashed to a height of at least 6 inches.

Subchapter III — Heating, Ventilating, and Air Conditioning

- **SPS 327.37 Scope.** The provisions of this subchapter shall apply to the design, installation, and construction of all heating, ventilating, and air conditioning systems in camping units covered by this code.
 - History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.
- **SPS 327.38 Design.** Where a heating system is provided in a camping unit, the heating system shall be designed in accordance with this section. Where a cooling system is provided in a camping unit, the cooling requirements of this section shall be met.
- (1) DISTRIBUTION SYSTEMS. Distribution systems shall be sized and located to satisfy the heating and cooling loads of each conditioned space.
- (2) VENTILATION.
- (a) General.
- 1. All exhaust vents shall terminate outside the camping unit.
- 2. Automatic or gravity dampers that close when the system is not operating shall be provided for outdoor air intake and exhaust.
- (b) Balancing.
- 1. 'General.' Except as provided under subd. 2., mechanical ventilation systems shall be balanced.
- 2. 'Exception.' Passive intake air ducts providing makeup air for intermittent exhaust fans shall be sized to provide at least 40% of the total air that would be exhausted with all intermittent exhaust ventilation in the camping unit operating simultaneously.
- 3. 'Kitchen range hoods.'
- a. Kitchen range hoods that exhaust air from the kitchen area are considered as exhaust ventilation for balancing and makeup purposes.
- **b.** Kitchen range hoods that are listed and installed to recirculate air without exhausting it are not required to be balanced.
- 4. 'Infiltration.'
- a. Infiltration may be considered as makeup air for balancing purposes only where there are no naturally vented space- or water-heating appliances in the camping unit.
- **b.** For the purpose of complying with this subdivision, naturally vented space-heating or water-heating appliances are those that take combustion or dilution air from inside the camping unit, including unsealed fireplaces and draft hood appliances with power venting.
 - Note: Whole-house fans that are used in the summer to bring cool night air in through open windows and exhaust into the attic are considered to be a supplemental cooling system rather than part of the ventilation system.
- (c) Rooms with toilets, tubs, or showers. Any room with a toilet, tub, or shower shall be provided with exhaust ventilation capable of exhausting 50 cubic feet per minute on an intermittent basis or 20 cubic feet on a continuous basis.
- (3) CONTROLS. The temperature rise through the equipment shall not exceed 100 degrees Fahrenheit unless listed. Controls shall be provided to maintain the inside temperature. Where forced, warm-air systems are used, controls shall be installed to control air movement.
 - History: EmR1703; emerg. cr., eff. 2-6-17; CR 17-017; cr. Register March 2018 No. 747, eff. 4-1-18.
- **SPS 327.39** Selection of equipment. All heating and central cooling equipment shall be selected on the basis of air-handling capacity, pumping capacity, and thermal capacity to handle the calculated design heating or cooling load.

SPS 327.40 Types and location of equipment.

- (1) GENERAL.
- (a) All heat producing appliances and cooling appliances shall be listed by a testing agency acceptable to the department.

- (b) Installation and maintenance of gas-fueled appliances shall comply with the appliance listing and the requirements of NFPA 54, National Fuel Gas Code, except as otherwise required under this subchapter.
- (2) FURNACES.
- (a) The input and output capacity of furnaces shall be listed on the nameplate. All nameplates shall show evidence that the equipment has been listed by a recognized testing laboratory.
- (b) Furnaces shall be fired with the fuel for which they have been approved. Fuels shall be supplied to the furnace in the volume and at the pressure required on the label.
- (3) WATER HEATERS.
- (a) A water heater with a tank may be installed in a closet located in a bathroom or bedroom where the closet is used exclusively for the water heater, where the enclosed space has a weather-stripped solid door with a self-closing device, and where all air for combustion is obtained from the outdoors.

Note: Section SPS 327.41 still requires combustion air to be provided to the appliance.

(b) A tankless water heater may be installed in any closet or cabinet. The tankless water heater shall be installed in accordance with the manufacturer's installation instructions.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.41 Combustion air.

- (1) SCOPE.
- (a) Naturally vented appliances and other appliances that require air for combustion and dilution of flue gases to be taken from within the camping unit shall comply with this section.
- (b) Appliances that are provided with a direct supply of outside air for combustion in accordance with the manufacturer's installation instructions and listing are not required to comply with this section.
- (c) Where the appliance listing and manufacturer's instructions are more stringent than the provisions of this section, the listing and manufacturer's instructions apply.
- (d) Listed fireplace stoves are not required to comply with this section if permitted in the manufacturer's instructions.
- (e) Listed factory-built fireplaces shall comply with the manufacturer's recommendations.
- (2) METHODS FOR PROVIDING AIR. Air for combustion and dilution shall be provided in accordance with one of the following:
- (a) Air may be provided from inside the camping unit in accordance with sub. (3).
- (b) Air may be provided from outside the camping unit in accordance with sub. (4).
- (c) The appliance may be installed in accordance with its listing and manufacturer's instructions.
- (d) An engineered system providing an adequate supply of air for combustion ventilation and dilution of flue gases may be installed if approved by the department.
- (3) AIR FROM INSIDE THE CAMPING UNIT.

(a)

- 1. The equipment shall be located in a space with a volume not less than 50 cubic feet per 1000 Btu/h of the combined input rating of all fuel-burning appliances drawing combustion and dilution air from that space.
- 2. The space may be made up of more than one room if the rooms are connected through doorways without doors or connected through sets of openings described in par. (b).

(b)

- 1. When needed to connect rooms, two openings shall be provided, one within one foot of the ceiling of the room and one within one foot of the floor.
- 2. The net free area of openings shall be calculated in accordance with sub. (5).
- 3. The net free area of each opening shall be a minimum of one square inch per 1000 Btu/h of combined input rating of the fuel burning appliances drawing combustion and dilution air from the communicating rooms, but shall be not less than 100 square inches.

- (4) AIR FROM OUTSIDE THE CAMPING UNIT.
- (a) When air for combustion and dilution is provided from outside the camping unit, as allowed under sub. (2) (b), one of the methods specified in pars. (b) to (d) shall be used.
- (b) Openings may be provided to connect rooms containing appliances to the outdoors.

1.

- a. Two openings shall be provided, one within one foot of the ceiling of the room and one within one foot of the floor.
- b. Openings may connect directly to the outdoors or to the outdoors through a horizontal or vertical duct.
- c. The net free area of openings shall be calculated in accordance with sub. (5).
- 2. The net free area of each direct opening to the outdoors not using a duct shall be a minimum of one square inch per 4000 Btu/h of combined input rating of the fuel-burning appliances drawing combustion and dilution air from the room.

3.

- a. The net free area of each opening connected to the outdoors through a horizontal duct shall be a minimum of one square inch per 2000 Btu/h of combined input rating of the fuel-burning appliances drawing combustion and dilution air from the room.
- b. The cross-sectional area of the duct shall be equal to or greater than the required size of the opening.

4.

- a. The net free area of each opening connected to the outdoors through a vertical duct shall be a minimum of one square inch per 4000 Btu/h of combined input rating of the fuel-burning appliances drawing combustion and dilution air from the room.
- **b.** The cross-sectional area of the duct shall be equal to or greater than the required size of the opening.

1. Where all appliances drawing air for combustion and dilution from the room are gas appliances, air may be provided via a single opening to connect the room to the outdoors in accordance with this paragraph.

2.

- a. The opening shall be located within one foot of the ceiling of the room.
- **b.** The opening may connect directly to the outdoors, may connect to the outdoors through a horizontal duct, or may connect to the outdoors through a vertical duct.
- c. The net free area of the opening shall be calculated in accordance with sub. (5).

3.

- a. The net free area of the opening shall be a minimum of one square inch per 3000 Btu/h of combined input rating of the fuel-burning appliances drawing combustion and dilution air from the room, and not less than the combined cross-sectional flow areas of the appliance flue collars or draft hood outlets.
- b. The cross-sectional area of the duct shall be equal to or greater than the required size of the opening.
- **4.** The appliances shall have a minimum clearance to the surfaces of the room of one inch at the sides and back of the appliance and 6 inches at the front of the appliance.

(a)

1. A combination of openings to the outside and openings to other rooms may be used in accordance with this paragraph.

2.

- **a.** One opening shall connect directly to the outdoors, connect to the outdoors through a horizontal duct, or connect to the outdoors through a vertical duct.
- b. The net free area of the openings shall be calculated in accordance with sub. (5).
- c. The net free area of the opening shall be a minimum of one square inch per 5000 Btu/h of combined input rating of the fuel burning appliances drawing combustion and dilution air from the room.

d. The cross-sectional area of a duct, if used, shall be equal to or greater than the required size of the opening.

3

- a. The equipment shall be located in a space with a volume not less than 50 cubic feet per 1000 Btu/h of the combined input rating of all fuel-burning appliances installed in that space.
- **b.** The space may be made up of more than one room if the rooms are connected through openings without doors or connected through sets of openings described in subd. 4.

4.

- a. When needed to connect rooms, two openings shall be provided, one within one foot of the ceiling of the room and one within one foot of the floor.
- b. The net free area of openings shall be calculated in accordance with sub. (5).
- c. The net free area of each opening shall be a minimum of one square inch per 1000 Btu/h of combined input rating of the fuel burning appliances drawing combustion and dilution air from the communicating rooms, but shall be not less than 100 square inches.
- (5) NET FREE AREA CALCULATION.
- (a) The required size of openings for combustion and dilution air shall be based on the net free area of each opening.
- (b) The net free area of an opening shall be that specified by the manufacturer of the opening covering or by a source approved by the department.
- (c) In the absence of such information, openings covered with metal louvers shall be deemed to have a net free area of 75 percent of the area of the opening, and openings covered with wood louvers shall be deemed to have a net free area of 25 percent of the area of the opening.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.42 Mechanical draft systems. Where a mechanical draft system, such as a fan is used, provision shall be made to prevent the flow of gas to the main burners when the draft system is not performing so as to satisfy the operating requirements of the system for safe performance.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.43 Equipment maintenance information. Required regular maintenance actions for equipment shall be clearly stated and incorporated on a readily accessible label. The label may be limited to identifying, by title or publication number, the operation and maintenance manual for that particular model and type of equipment. Maintenance instructions shall be furnished for equipment which requires preventive maintenance for efficient operation. Manufacturer's manuals for all installed heating and cooling equipment and service water heating equipment shall be provided.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.44 Ductwork.

- (1) DUCT USE. Ducts designed for the transmission of air shall be used for no other purpose.
- (2) INTERIOR DUCTS. All interior ducts shall be constructed in accordance with the following:
- (a) Supply and return air ducts. Supply and return air ducts shall comply with this paragraph except that ducts attached to appliances may be constructed of materials specified in the appliance listing.
- 1. Kitchen exhaust ducts and ducts for air exceeding 250 degrees Fahrenheit shall be constructed of sheet metal or lined with sheet metal or constructed of other noncombustible noncorrugated materials.
- 2. Ducts connected to furnaces shall be constructed of sheet metal for at least 6 feet from the furnace.
- 3. Spaces formed by unlined wood joists, studs or wood I-joists with solid webs may be used as return air ducts. Spaces used as return air ducts shall be cut off from all remaining unused portions of the space by tight-fitting stops of sheet metal or of wood joist material. Bridging shall be removed from the joist space.
- **(b)** Under-floor plenums. An under-floor space may be used as a plenum in a camping unit in accordance with this section.
- 1. Except for the floor immediately above the under-floor plenum, supply ducts shall be provided extending from the plenum to registers or other floor levels.

- 2. The under-floor spaces shall not be used for storage, shall be cleaned of all loose scrap material and shall be tightly and substantially enclosed.
- 3. The enclosing material of the under-floor space, including the side wall insulation and vapor barriers, shall not be more flammable than one-inch wood boards.
- 4. Access shall be through an opening in the floor which shall be 18 inches by 24 inches.
- 5. The furnace supplying warm air to the under-floor space shall be equipped with an automatic control which will start the air circulating fan when the air in the furnace bonnet reaches a temperature not higher than 150 degrees Fahrenheit. The control shall be one that cannot be set higher than 150 degrees Fahrenheit.
- 6. The furnace supplying warm air to the under-floor space shall be equipped with an approved temperature limit control that will limit outlet air temperature to 200 degrees Fahrenheit.
- 7. A noncombustible receptacle shall be placed below each floor opening into the air chamber. The receptacle shall be securely suspended from the floor members and shall be not more than 18 inches below the floor opening. The area of the receptacle shall extend 3 inches beyond the opening on all sides. The perimeter of the receptacle shall have a vertical lip at least one inch high at the open sides if it is at the level of the bottom of the joist, or 3 inches high if the receptacle is suspended.
- 8. Floor registers shall be designed for easy removal to permit access for cleaning the receptacles.
- 9. Exterior walls and interior stud partitions shall be firestopped at the floor.
- 10. Each wall register shall be connected to the air chamber by a register box or boot.
- 11. A duct conforming to par. (a) shall extend from the furnace supply outlet at least 6 inches below combustible framing.
- 12. The entire ground surface and enclosing exterior walls of the under-floor space shall be covered with a vapor barrier having a vapor permeability rating of one perm or less and a flame spread rating of 200 or less.
- 13. Fuel gas lines may not be located within the under-floor space.

SPS 327.45 Dampers, registers, and grilles.

- (1) VOLUME AND BACKDRAFT DAMPERS.
- (a) Volume duct dampers shall be provided to permit balancing of the system.
- (b) Volume dampers shall be provided with access.
 - Note: Acceptable means of access include a manufactured access panel, an air grille used as a cover, a plastic ceiling cap, or a damper accessible through an air diffuser or grille.
- (2) AIR REGISTERS AND GRILLES.
- (a) Supply air registers. All supply air outlets shall be provided with registers or devices which will provide a uniform distribution of air.
- (b) Return air grilles. Return air grilles shall not be located in bathrooms, kitchens, utility spaces, or a confined space in which a draft diverter or draft regulator is located. All other habitable spaces shall have permanent openings to a return air grille equal in area to the supply outlet serving those areas. At least one return air opening shall be provided for each floor.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.46 Piping.

(1) PIPE SIZES AND ARRANGEMENT. All steam and hot water supply and return piping, air-line piping and auxiliary equipment shall be of appropriate sizes, elevations and arrangements to accomplish the calculated results without stress or other detriment.

Note: The sizes of pipe to be used for mains and risers may be selected from the ASHRAE Guide and Data Book, published by the American Society of Heating, Refrigerating and Air Conditioning Engineers; or the manuals published by the Institute of Boiler and Radiator Manufacturers or the Mechanical Contractors Association of America.

- (2) EXPANSION AND CONTRACTION. The piping for the heating system shall be equipped with anchors, expansion swings, or joints, supports and similar devices to relieve stress and strain caused by temperature change of the pipe material.
- (3) PIPE INSULATION. Unguarded steam, hot water supply and return piping shall be covered with insulating material where the pipes pass through occupied areas and the surface temperature exceeds 180 degrees Fahrenheit.
- (4) STEAM AND HOT WATER PIPES. No pipe carrying hot water or steam at a surface temperature exceeding 250 degrees Fahrenheit shall be placed within one inch of any combustible material, pass through a combustible floor, ceiling, or partition unless the pipe is protected by a metal sleeve one inch larger in diameter than the pipe or with approved pipe covering.
- (5) BALANCING. Balancing cocks shall be provided in each circuit of a hot water distribution system. History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.
- SPS 327.47 Venting system location. A venting system shall terminate at least 3 feet above any forced air inlet located within 10 feet horizontally. This provision does not apply to the combustion air intake of a direct-vent appliance.

- **SPS 327.48** Multiple appliance venting. Two or more listed gas-or liquid-fueled appliances may be connected to a common gravity-type flue provided the appliances are equipped with listed primary safety controls and listed shutoff devices and comply with the following requirements:
- (1) The appliances shall be located in the same story, except for engineered venting systems.
- (2) The appliances shall be joined at a manifold or Y-type fitting as close to the chimney as possible, unless the connector from each appliance enters a separate chimney inlet and the inlets are offset at least 12 inches vertically or the separate inlets occur at right angles to each other.

History: EmR1703: emerg. cr., eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.49 Fuel storage.

- (1) LP GAS STORAGE TANKS.
- (a) All LP gas storage tanks shall be constructed, installed, and maintained to conform with the applicable sections of ch. SPS 340.
- (b) LP gas tanks may not be located inside camping units.
- (c) LP gas tanks shall have welded steel supports and be permanently installed on concrete pads or foundations.
- (2) OIL STORAGE TANKS.
- (a) The total oil storage capacity inside any camping unit shall be limited to 550 gallons in one tank, or not more than 275 gallons in each of 2 tanks cross-connected to a single burner.
- (b) Oil storage tanks on the inside of any camping unit shall be located at the same level as the burner it serves.

 Note: Except as provided in pars. (a) and (b), the installation of oil storage tanks is regulated under ch. ATCP 93, Flammable,
 Combustible, and Hazardous Liquids.
- (3) GAS PIPING SYSTEMS. Gas piping systems, extending from the point of delivery to the connection with each gas-fired appliance or device, shall be installed to conform with NFPA 54, National Fuel Gas Code.
- (4) SHUTOFF AND CONTROL DEVICES.
- (a) Any oil-fired appliance or device connected to a fuel piping system shall have an accessible, approved manual shutoff valve installed upstream of any connector.
- (b) Automatic gas-burning heating appliances shall be equipped with listed devices which will shut off the gas to the pilot light and main burner or burners in the event of pilot failure.
- (c) Liquid fuel-burning appliances shall be equipped with primary safety controls which will shut off the flow of fuel to the burner or burners in the event of ignition failure.

History: EmR1703; emerg. cr., eff. 2-6-17; CR 17-017; cr. Register March 2018 No. 747, eff. 4-1-18.

Subchapter IV — Electrical Standards

SPS 327.50 Electrical standards.

- (1) All electrical wiring, installations, equipment and materials used in the construction of camping units shall comply with the requirements of the Wisconsin Administrative Electrical Code, Vol. 2., ch. SPS 316, except as provided in this section.
- (2) The requirements in NEC section 210.70 (A) (2) (b) do not apply to a stairway for a deck. A light over the stairs of the deck is not required, but a light outside the door exiting to the deck is required.
- (3) Except as provided in s. SPS 327.11, the inspection of the electrical construction of a camping unit is not required.
- (4) No more than one receptacle outlet is required to be installed for the entire countertop space of a kitchen in a camping unit.
- (5) The requirements for installation of fire alarms and smoke detectors in a camping unit are as provided in s. SPS 327.26.
- (6) The rating of the disconnecting means and the ampacity of a conductor providing supply to a camping unit consisting of a framed structure may not be less than 50 amperes.

Subchapter V — Plumbing

SPS 327.51 Plumbing.

- (1) GENERAL. The design, construction, and installation of plumbing shall comply with the requirements of the Wisconsin Plumbing Code, chs. SPS 382 to 387, except as provided in this section.
- (2) TANKLESS WATER HEATERS.
- (a) The minimum flow rate of a tankless type water heater may be obtained by multiplying 0.65 by the calculated hot water gallons per minute demand, as determined by ch. SPS 382 Tables 382.40–1b and 382.40–3, provided the heater will achieve a water temperature of 110 degrees Fahrenheit at the terminal fitting or faucet.
- (b) The sizing method in par. (a) may not be used for sizing a water heater serving a high-flow fixture, a hose bibb, a hydrant, or a fixture that is required to have a supply line with a diameter larger than one-half inch.
- (c) For the purposes of this subsection, "high-flow fixture" means a fixture with a flow rate of more than 4 gallons per minute, at 80 pounds per square inch, and a water velocity not exceeding 8 feet per second.
- (3) SINKS.
- (a) No more than one sink is required to be installed in a camping unit.
- (b) If only one sink is installed in a camping unit, the sink shall be installed in the kitchen of the camping unit.
- (4) INSPECTIONS. Except as provided in s. SPS 327.11, the inspection of the plumbing of a camping unit is not required.
- (5) PIPE AND TUBING. The pipe and tubing for any portion of the plumbing system of a camping unit may be flexible plastic.

History: EmR1703: emerg. cr. as SPS 327.52, eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

Subchapter VI — Camping Unit Transfer Tanks

SPS 327.52 Purpose. The purpose of this subchapter is to establish uniform standards and criteria for the installation, inspection, and servicing of camping unit transfer tanks so that the tanks are safe and will protect public health and the waters of the state.

History: EmR1703: emerg. cr. as SPS 327.53, eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

SPS 327.53 Installation and maintenance. A camping unit transfer tank shall be installed and maintained in accordance with the manufacturer's specifications and as provided under ch. ATCP 79.

History: EmR1703; emerg. cr. as SPS 327.54, eff. 2-6-17; CR 17-017; cr. Register March 2018 No. 747, eff. 4-1-18.

- SPS 327.54 Compliance with code. A camping unit transfer tank that meets the following requirements is in compliance with this code:
- (1) The tank is listed and has been labeled by a nationally recognized testing agency.
- (2) The tank is installed as required under s. SPS 327.53

- (3) Inlet and toilet connections to the tank are sized to provide adequate flow rate and designed to prevent backflow contamination.
- (4) A vent that terminates outside the camping unit is located at the highest point of the tank. History: EmR1703: emerg. cr. as SPS 327.55, eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.
- SPS 327.55 Servicing requirements. The servicing of a camping unit transfer tank shall be performed in a manner to prevent the discharge of wastewater into the surrounding soil or onto the ground surface.
 - **Note:** The servicing of private sewerage systems including septic and holding tanks, dosing chambers, grease interceptors, seepage beds, seepage pits, seepage trenches, privies and portable restrooms is addressed in ch. NR 113, which is administered by the department of natural resources,

- **SPS 327.56** Abandonment. A subsurface tank that is no longer used as a camping unit transfer tank shall be abandoned by complying with all of the following:
- (1) Disconnecting all piping to the tank.
- (2) Sealing all disconnected piping to the tank.
- (3) Pumping and disposing of the contents from the tank.
 - **Note:** The removal and disposal of the contents from treatment tanks, distribution tanks, seepage pits, and holding components is addressed in ch. NR 113, which is administered by the department of natural resources.
- (4) Removing the tank or removing the cover of the tank and filling the tank with soil, gravel, or an inert solid material.

History: EmR1703: emerg. cr. as SPS 327.57, eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

- SPS 327.57 Penalties. Penalties for violations of this subchapter shall be assessed in accordance with s. 145.12, Stats.
 - Note: Section 145.12 (4), Stats., indicates that any person who violates any order under s. 145.02 (3) (f) or 145.20 (2) (f) or any rule or standard adopted under s. 145.02 shall forfeit not less than \$10 nor more than \$1,000 for each violation. Each violation of an order under s. 145.02 (3) (f) or 145.20 (2) (f) or any rule or standard adopted under s. 145.02 constitutes a separate offense and each day of continued violation is a separate offense.

History: EmR1703: emerg. cr. as SPS 327.58, eff. 2-6-17; CR 17-017: cr. Register March 2018 No. 747, eff. 4-1-18.

(Class II Public Notice)

NOTICE OF PUBLIC HEARING

VILLAGE OF RICHFIELD

Thursday, March 19, 2020

PLEASE TAKE NOTICE:

Notice is hereby given, pursuant to Section 19.84, Wis. Stats., and provisions of the Village of Richfield Code of Ordinances, that the Village of Richfield Village Board will conduct two (2) public hearing on Thursday, March 19, 2020 at 7:00 p.m. at the Village Hall, located at 4128 Hubertus Road, Hubertus, WI 53033 to consider the following:

- Ordinance amendment to repeal and recreate Section 70.241 of the Village Code related to Conditional Use Administration – Village Board, petitioners
- 2) Ordinance amendment to amend 70.207(D)(2) in the P-1, Parks and Recreation District related to "Camping Cabins" in Glacier Hills Park as a conditional use Washington County, petitioners For information regarding these petitions, please contact Jim Healy, Village Administrator at (262)-628-2260. This application is available during normal business hours. All interested parties will be heard. Requests from persons with disabilities who need assistance to participate in this meeting or hearing should be made to the Village Clerk's Office at (262)-628-2260 with as much advanced notice as possible. Dated this 28th day of February 2020

Publication Dates:

March 5, 2020 March 12, 2020

Jim Healy Village Administrator Village of Richfield 4128 Hubertus Road Hubertus, WI 53033 (262)-628-2260



PLAN COMMISSION COMMUNICATION FORM



MEETING DATE: March 5, 2020

SUBJECT:

Conditional Use Administration - Ordinance Amendment

DATE SUBMITTED:

February 28, 2020

SUBMITTED BY:

Jim Healy, Village Administrator

POLICY QUESTIONS: DOES THE PLAN COMMISSION WISH TO RECOMMEND TO THE VILLAGE BOARD THE APPROVAL OF THE PROPOSED ORDINANCE?

ISSUE SUMMARY:

As the Plan Commission knows, the Village Board repealed all Conditional Uses in the Village Code as a result of Act 67. However, the actual "process" Conditional Use Permit (CUP) applicants must go through was not repealed. The Village Board directed Staff to prepare for a Public Hearing in March for this very process. While this is part of a larger discussion scheduled for tonight, at the direction of the Board, Village Staff would like to discuss the pillars of the new CUP process. For reference, I have included our existing Section of the Village Code dealing with Conditional Use Administration, which is Section 70.241. One thing that you will notice immediately upon a review of the same, is that the actual "process" is very limited. There is virtually no criteria for the Plan Commission to base a decision on, ergo the Wisconsin State Legislature requiring the concept of "substantial evidence" being introduced into the process. Below is a summary of the Ordinance:

1. Applicability and Limitations:

- 70.532(A): First and foremost, to apply for a CUP, you must live in an area of the Village which allows for the desired CUP to be on the property.
- 70.532(B): This provision gives the Plan Commission latitude to decide whether a parcel with a nonconforming lot (size of parcel, lot width, etc.) can have a CUP or not.
- 70.532(C): This provision gives the Plan Commission latitude to consider whether a property can have a nonconforming use along with a separate CUP.
- 70.532(D): This provision gives the Plan Commission latitude to issue more than one CUP to a property so long as the uses are compatible. Verbiage such as this could impact strip malls, multi-tenant facilities, etc.
- 2. Initiation:
 - 70.533: CUPs are petitioned by property owners (or their agents on a form provided by the Village).
- 3. Review Procedure:
 - 70.534: This language is nearly identical to existing Code Section 70.241(C) "Review and Approval".
- 4. Steps in the Review Process:
 - 70.534(B): As a part of this process, as we do currently, we will require a "Pre-Submittal Meeting" to meet with the Planning and Zoning Administrator to discuss the petition. Following the meeting, there is a submittal of materials. This kicks-off a 10 day review process for determining the completion of the materials. After all the materials have been submitted and determined to be complete, the matter is scheduled for a "Review Date" at the next regularly scheduled meeting. This is a "Joint Meeting" between the Village Board and Plan Commission where the rules of the CUP process are explained to the general public. If notices are required to be sent to the DNR, they are also notified. Staff reports will be prepared and required to be sent to the applicant and any other interested party upon request. A Joint Public Hearing is scheduled between the Village Board and the Plan Commission. At the conclusion of the Public Hearing, Staff will be directed by the Plan Commission to prepare a "Preliminary Decision Document" or otherwise referred to as a finding of fact and conclusion of law memoranda- very similar to how we handle Board of Zoning Appeals meetings. After this document has been reviewed by the Plan Commission, they will make a recommendation to the Village Board where they will make the decision. The decision is given to the applicant for acceptance. A copy is retained at Village Hall. Then the document is recorded with the Washington County Register of Deeds. The potential exists that the process will take 65-95 days or longer.



PLAN COMMISSION COMMUNICATION FORM

MEETING DATE: March 5, 2020

SUBJECT: Conditional Use Administration - Ordinance Amendment

DATE SUBMITTED: February 28, 2020

SUBMITTED BY: Jim Healy, Village Administrator

5. Basis of Decision:

- 70.535: These are the areas which the proposal must comply with. Amongst other things, the basis of decision must be based on "Substantial Evidence" as dictated by Wisconsin State Statutes.
- 6. Special Conditions of Approval:
 - 70.536: These are "Special Conditions of Approval" which the Plan Commission may consider.
- 7. Conditional Use Performance Standards:
 - 70.537: These enumerated performance standards create an equitable and objective basis for control to
 ensure the community is adequately protected from potential hazardous and nuisance-like impacts. These
 performance standards are included right now in just about every CUP the Village Staff writes. This
 language codifies these standards.
- 8. Standard terms for an approved conditional use:
 - This series of verbiage and conditions are also included in virtually every CUP written by Staff. However, if they are not codified, they cannot be considered, that is why they are not included in our Section series for Conditional Use Administration.
- 9. Application Form and Content & Staff report content:
 - These provisions in 70.539 and 70.540 are self-explanatory.
- 10. Content of Decision Document:
 - What is required to be included in the document if it is both "Approved" or "Denied". Enumerated criteria helps to define expectations and creates a "checklist" for Staff to administer as to what needs to be touched on.
- 11. Term of Approval:
 - 70.542: Unless otherwise spelled out in the CUP, the term of approval is five (5) years. The ability also exists to make applicants come back to the Plan Commission for periodic reviews.
- 12. Effect of Approval:
 - The approval runs with the land unless otherwise specified. There is also a provision for "Temporary Use".
- 13. Expiration of an Approval:
 - If the CUP does not commence within 12 months, the process to terminate the approval shall be followed. The Planning and Zoning Administrator may grant an extension not to exceed six (6) months provided they can meet specified criteria.
- 14. Amendment of an approved conditional use:
 - 70.545: Minor alternations as determined by the Plan Commission, may be approved at a regular or special meeting without following the review procedure. If there is a "major alteration" as determined by Staff and/or the Plan Commission the process for obtaining a CUP shall be followed.
- 15. Appeal
 - 70.456: A court of "competent jurisdiction" may hear an appeal within 30 days of the date of the final decision.
- 16. Effect on Comprehensive Plan
 - 70.547: A CUP does not need to be consistent with our Comprehensive Plan. Although its worth mentioning the land use must be compatible with our Future Land Use Map.

FUTURE IMPACT AND ANALYSIS:

Forward to Village Board: Yes. Additional Approvals Needed: Yes.

Signatures Required: Yes.

REVIEWED BY



PLAN COMMISSION COMMUNICATION FORM

MEETING DATE: March 5, 2020

SUBJECT:

Conditional Use Administration - Ordinance Amendment

DATE SUBMITTED:

February 28, 2020

SUBMITTED BY:

Jim Healy, Village Administrator

ATTACHMENTS

- 1. Section 70.241 Conditional Use Administration (Existing)
- 2. Proposed Conditional Use Administration Ordinance
- 3. DRAFT Class II Public Hearing Notice to repeal and recreate Sec. 70.241

STAFF RECOMMENDATION:

Motion to recommend to the Village Board the approval of the drafted Conditional Use Administration ordinances for the repeal and recreation of Section 70.241 of the Village Code.

the repeat and recreation of Section 70.241 0.	the village Code.				
APPROVED FOR SUBMITTAL BY:	VILLAGE CLERK USE ONLY BOARD ACTION TAKEN				
Village Staff Member Village Administrator	Resolution No	Continued To: Referred To: Denied File No.			

Village of Richfield, WI Thursday, November 29, 2018

Chapter 70. Zoning

ARTICLE IV. Uses

70.241. Conditional use administration.

[Ord. No. 01-04-02, § 2, 4-19-2001; Ord. No. 02-05-01, Exh. A, 5-16-2002; Ord. No. 05-01-03, § 1, 1-20-2005]

- A. Permits. The Village Board may authorize the Planning and Zoning Administrator to issue a conditional use permit for conditional uses after review and a public hearing, provided that such conditional uses and related structures are in accordance with the purpose and intent of this chapter and are found to be not hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the neighborhood or the community.
- B. Application. Applications for conditional use permits shall be made in triplicate to the Village Clerk on forms furnished by the Planning and Zoning Administrator or designated Village employees and shall include the following:
 - 1. Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners of record within 300 feet.
 - 2. Description of the subject site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located. For floodland conditional uses, such description shall also include information that is necessary for the Plan Commission and county park and planning commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land surveyor, showing elevations or contours of the ground at two-foot intervals; fill or storage elevations;

first floor elevations of structures; size, location, and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types and other pertinent information.

- Plat of survey prepared by a registered land surveyor showing all of the information required under section 70.131 for a zoning/building permit as well as the following: mean and historic high-water lines and floodlands on or within 40 feet of the subject premises; and existing and proposed landscaping. 3.
- Additional information as may be required by the Plan Commission, Village Engineer, Planning and Zoning 4. Administrator, or Building Inspector.
- review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas driveway locations, highway access, traffic generation and circulation, drainage, sewage disposal and water systems, and the proposed operation and, prior to Village Board action, shall hold a public hearing as set forth in section 70.45. Review and approval. The Village Plan Commission shall
 - Conditions such as landscaping, architectural design, type of construction, drainage, floodproofing, anchoring 1. of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements may be required by the Plan Commission upon its finding that these are necessary to fulfill the purpose and intent of this chapter. purpose and intent of this chapter.
 - 2. Notice to state department of nature resources (DNR). The Plan Commission shall transmit a copy of each application for a conditional floodland use to the county park and planning commission and the state park and planning commission and the state department of natural resources (DNR) for review and comment. Action on the application shall not be taken for 30 days or until the county and department of natural resources (DNR) have made their recommendation, whichever comes first. A copy of all floodland conditional use permits shall be transmitted to the county and department of natural resources (DNR) within 10 days of the effective date of such permit.
- D. Village Board action.
 - Following a public hearing by the Plan Commission and after careful consideration of the Village Plan Commission's recommendations, the Village Board 1.

may grant the conditional use permit as applied for, grant the conditional use permit with conditions deemed appropriate by the board, or deny the permit. Compliance with all other provisions of this chapter, such as lot width and area, yards, height, parking, loading, traffic, highway access, and performance standards, shall be required of all conditional uses, unless otherwise stipulated in the individual districts regulations. Variances shall only be granted as provided in sections 70.104 and 70.163.

- 2. When the Village Plan Commission believes either by observation or by citizen complaint, that a permitted conditional use has been or is being violated, the Plan Commission may convene a public hearing as set forth in section 70.45 giving at least 30 days notice to the holder of the conditional use permit and advising the permit holder, as well as property owners within 300 feet of the conditionally permitted use of the purpose feet of the conditionally permitted use, of the purpose of the hearing which may be to recommend to the Village Board that the conditional use permit then in effect be altered, rescinded or reaffirmed. The Village Board, after receiving the recommendation of the Village Plan Commission, may take action to alter, rescind, or reaffirm the conditional use permit then in effect. The Village Clerk shall take the steps necessary to alter or rescind any covenants or other pertinent documents concerning the conditional use which may be on file in the office of the county register of deeds.
- Ε. Conditional uses allowed in all zoning districts.
 - 1. Any principal use other than the initial principal use on a parcel or property.
 - 2. Solar and wind energy collection and electric production devices. Any active or passive solar and Solar and wind collection collection, reflection, wind energy conversion, generation, fransmission, or storage system and device external to the principal use structure or placed as an accessory or principal use on property within the Village shall be required to secure a permit for the erection of such system or device from the Building Inspector prior to such erection or placing. Application for placement or erection of such system or device shall include detailed construction drawings of the entire system including any modification to existing structures, dimensions of the system and the structure structures, dimensions of the system and the structure to which it is affixed or connected, distances to the boundaries of the individual property on which the system or device is proposed to be placed, names of the owners of the property as well as names and addresses of individual persons or firms involved in the sale, fabrication, erection, placing, connection and insuring of such system or device. In addition, the applicant for such permit shall provide the Building Inspector with a site plan showing: the location of the system or device on the site and the approximate

distance to any structures on adjacent properties; landscaping screens; fences; overhead electric, telephone and TV cables; and, permanent ponds or pools of water. The applicant shall, in addition, provide evidence that all applicable county, state and federal regulations have been meet and that all applicable regulations of the affected electric utility company have been met.

- 3. Radio and television reception and transmission devices not governed by section 70.271. Any radio or television reception or transmission system or device external to the principal use structure or placed as an accessory use on property within the Village shall be required to secure a permit for the erection of such system or device. The application therefor shall include detailed construction drawings of the entire system including any modifications to existing structures, dimensions of the system and the structure to which it is affixed or connected, distances to the boundaries of the individual property on which the system or device is proposed to be placed, names of the owners of the property as well as names and addresses of individual persons or firms involved in the sale, fabrication, erection, placing, connection and insuring of such system or device. In addition, the applicant for such permit shall provide the Building Inspector with a site plan showing: the location of the system or device on the site and the approximate distance to any structures on adjacent properties, landscaping screens, fences, overhead electric, telephone and TV cables, and permanent ponds or pools of water. The applicant shall also provide evidence that all applicable county, state and federal regulations have been met and that all applicable regulations of the affected utility company have been met. Such uses may not be placed in the front yard area of any principal use within the Village.
- 4. Short-term mining or mineral extraction activities.
 - a. A special conditional use permit issued under this subsection (E)(4) shall be limited to a term of not more than five years; shall be limited to parcels of less than 20 acres in size; and shall be limited to the following mining and mineral extraction activities:
 - i. The mining or extraction of rock, gravel, sand or topsoil;
 - ii. The separation, crushing and washing of rock and gravel;
 - iii. The processing and washing of sand;
 - iv. The processing of topsoil; and

- v. The temporary storage of processed materials. In addition, a permit issued under this shall require the completion of a restoration plan within the terms of the permit.
- b. In determining whether to issue a permit under this subsection (E)(4), the following factors may be considered:
 - i. The relationship of the proposed final grades to the surrounding terrain;
 - ii. The proposed post-extraction use of the land;
 - iii. The impact of the extraction activities upon surrounding properties and inhabitants in terms of sound, dust and sight;
 - iv. The effect of such activities upon roadways and traffic;
 - v. Any other factors affecting the health and general welfare of the immediate neighborhood and the Village in general.
- c. Permits issued under this subsection (E)(4) shall specify:
 - The physical limits of the extraction activity including setbacks, slopes and other grading features, all of which shall be set forth in an approved engineering plan;
 - ii. The hours of operation;
 - iii. The machinery and equipment to be used;
 - iv. The location and height of temporary storage piles of extracted materials;
 - v. Any required sound, dust or sight buffers, barriers or control devices;
 - vi. Special safety measures;
 - vii. The required restoration plan including a landscaping plan;
 - viii. The nature and amount of financial guarantees; the date of completion of the activities, in stages, if applicable, and in total;
 - ix. Any other condition deemed necessary to protect the public health, safety and general welfare.
- Failure to operate within the conditions established shall result in immediate suspension of the permit and shall be deemed a violation of the zoning

code subject to the penalties set forth in section 70.43.

- 5. Reserved.
- 6. Raising horses and other livestock. Notwithstanding other restrictions that may apply to a particular lot or parcel, either by deed, title or restrictive covenant, the keeping and raising of livestock, including horses, on lots and parcels located in any residential zoning district may be allowed by the Village Board with a conditional use permit provided the following minimum standards and criteria can be met:
 - a. Parcel area. The minimum lot or parcel area required shall be four acres.
 - b. Accessory use. The keeping and raising of livestock shall be an accessory use of the lot or parcel exclusively for the personal enjoyment and/or consumption of the owner(s) of the property and not related to nor part of a commercial business or operation.
 - c. Type and number. The type and number of animals that may be allowed as set forth in the permit shall not exceed one livestock unit per whole acre where one livestock unit shall be the equivalent of the following:
 - One cow, steer or buffalo;
 - ii. One horse, llama or emu;
 - iii. Two pigs or hogs;
 - iv. Two sheep or goats;
 - v. Ten poultry.

Specific requirements and limitations addressing the type and number of animals, structures, fencing, manure management, noise, odor, and other nuisances and impacts may be required as conditions of approval.

This provision is intended to allow the raising of such animals on lots or parcels that are not included in or made part of a recorded subdivision platted prior to the effective date of the ordinance adopting this provision, unless:

 d. The raising of such animals is specifically allowed on the subject lot or parcel as set forth in the subdivision deed restrictions or covenants; or e. The subject lot or parcel is specifically exempt from the operation or affect of the subdivision deed restrictions or covenants.

70.526 Amendment of an approved planned development district

If the Village Board approves a planned development district, the Plan Commission and Village Board shall review all proposed changes to the project plan that was approved at the time of approval. If in the opinion of the Village Board, the proposed change constitutes a minor alteration, the Village Board may approve the requested change at a regular or special meeting of the Village Board. If the proposed change constitutes a major alteration, the review procedure in this division must be followed.

70.527 Expiration of an approval

If any portion of a planned development district that can be developed remains substantially undeveloped 3 years after final approval, the Village Board may rescind the approval, in whole or in part, following a public hearing. Upon petition and with cause, the Village Board may grant a one-time extension, not to exceed 4 years. In the event the Village Board rescinds an approval, the Village Board shall at that time reclassify undeveloped lands in the district based on the zoning regulations in effect at that time. Developed portions of the planned development district may either be allowed to retain the planned development district designation or reclassified based on the zoning regulations in effect at that time.

70.528 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

70.529 to 70.538

Reserved

DIVISION 3 CONDITIONAL USE

70.531 Generally

Although each zoning district is primarily intended for a predominant type of land use, there are a number of uses that may be appropriate under certain conditions. These are referred to as conditional uses. This division describes the requirements and procedures for reviewing a conditional use, including an amendment of an approved conditional use.

70.532 Applicability and limitations

- A. General applicability. Those land uses designated as a conditional use in the land-use matrix (Appendix A) must comply with the requirements in this division.
- B. Limitation due to nonconforming lot. In the event a parcel is classified as nonconforming (e.g., lot area, lot width), the Village may not process an application for a conditional use as set forth in s. 70.533, unless the Plan Commission makes a determination that the nature of the nonconformity does not affect the appropriateness of the parcel for the conditional use.
- C. Limitation due to a nonconforming use on the lot. In the event a parcel has a nonconforming use, the Village may not process an application for a conditional use as set forth in s. 70.534, unless the Plan Commission makes a determination that the nonconforming use and proposed conditional use are compatible.
- D. Limitation due to existing conditional use on the lot. In the event a parcel has an approved conditional use, the Village may not process an application for another conditional use as set forth in s. 70.534, unless the Plan Commission makes a determination that the existing and proposed conditional uses are compatible.

70.533 Initiation

The owner of the subject property may submit an application for the establishment of a conditional use.

70.534 Review procedure

A. Review and approval. The Plan Commission and Village Board shall review existing and proposed site conditions, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway

locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, the proposed operation; and other factors the Plan Commission and/or Village Board determines are appropriate when considering a conditional use application.

- B. Steps in the review process. The general steps outlined below shall be used in the review of a conditional use application.
 - 1. Pre-submittal meeting: Before submitting an application, the applicant or the applicant's agent must meet with the zoning administrator to review applicable regulations and procedures and the proposal, Upon request, the zoning administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary given the nature of the project and/or the extent to which the applicant understands the Village's zoning requirements.
- 2. Submittal of application materials. The applicant submits a completed application and other required indictals to the zoning administrator along with the application fee as may be established by the Village.

 Board.
- 3. **Determination of completeness.** The zoning administrator reviews the submittal within 10 days of receiving the application and other required materials to make sure it is complete and ready for further review, if it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or fortest the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record.
- 4. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Village Board and the Plan Commission consistent with its adapted calendar.
- 5. Special notice to Department of Natural Resources, if the application relates to the floodplain regulations in this chapter, the zoning administrator shall send a copy of the application and public hearing notice to the regional office of the Wisconsin Department of Natural Resources at least 10 calendar days before the date of the public hearing.
- 6. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator shall provide for a class 2 public notice, properly owner notice, and meeting agenda notice.
- 7. Staff report preparation and distribution. The zoning administrator prepares a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and Village Board, the applicant, and any other interested person upon request.
- 8. **Public hearing.** Allowing for proper notice, the Village Board and the Plan Commission conduct a joint public hearing to review the application consistent with Division 3 of Article 4. Prior to the close of the public hearing, the applicant, Village Board, or the Plan Commission may request a continuance consistent with Division 3 of Article 4. If the public hearing is adjourned, the Village Board and/or Plan Commission may direct the zoning administrator, the Village engineer, and/or Village attorney to conduct additional research. In addition, the Plan Commission may direct the zoning administrator to prepare such documents it deems necessary, including a preliminary decision document.
- 9. Staff follow-up. After the close of the public hearing, the Plan Commission may direct the zoning administrator to prepare a preliminary decision document.
- 10. Plan Commission recommendation. After the public hearing has been closed, the Plan Commission will make a recommendation to the Village Board for approval or denial. The recommendation shall state the terms of the approval or reasons for denial as set forth in a draft conditional use order. The burden of proof is on the applicant to prove they have met the standards of the chapter and those set forth by the Plan Commission/Village Board during the process. The Plan Commission shall render its recommendation within 35 days from the close of the public hearing unless an extension is consented to in writing by the applicant.
- 11. **Village Board meeting**. Allowing for proper notice, the Village Board shall consider the application at a regular or special meeting.
- 12. **Decision.** After considering all of the information submitted by the applicant, public comments received at the public hearing, the staff report, and the Plan Commission's recommendation, the Village Board makes a decision to (I) approve the conditional use, (II) approve the conditional use with conditions, or (III) deny the conditional use.

- 13. Preparation of final decision document. Based on the action of the Village Board, the zoning administrator prepares a final decision document consistent with this division.
- 14. Applicant notification. Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
- 15. Notification to Department of Natural Resources. If the application relates to the floodplain regulations in this chapter, the zoning administrator sends a copy of the decision document to the regional office of the Wisconsin Department of Natural Resources via regular mail and/or email within 10 calendar days of the date of decision.
- 16. Acceptance by property owner. If the application is approved, the property owner must sign the decision document to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall become null and void without any further action by the Village. The decision document shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.
- 17. Public record copy. A duplicate copy of the decision document is retained as a public record.
- 18. Recording of decision document. If the property owner returns the decision document within the required time period with the required signatures, the zoning administrator records the decision document against the subject property in the office of the Washington County register of deeds.
- 19. Administrative steps. If the conditional use is approved and the zoning administrator has created a map showing conditional uses, the zoning administrator adds the conditional use to that map.

70.535 Basis of decision

The Plan Commission in making its recommendation and the Village Board in making its final decision shall consider whether the proposal complies with (1) each of the special conditions of approval set forth in s. 70.535. (2) each of the performance standards set forth in s. 70.535. (3) each of the development standards prescribed for the requested conditional use, (4) all other applicable sections of the zoning code, and (5) all other applicable sections of the municipal code, including the Village's groundwater regulations. The recommendation of the Plan Commission and the decision by the Village Board must be based on substantial evidence.

70.536 Special conditions of approval

A. Generally. Based on substantial evidence, the Plan Commission may recommend and the Village Board may impose may impose one or more conditions of approval as may be necessary to grant approval. Such conditions and restrictions may relate to the establishment, location, construction, maintenance, operation of the use, off-site impacts, and any other aspect of the use that impacts the public health, safety, or general welfare. Examples of such conditions are listed below.

dssy.		Potential Condition
1.	Hours of operation	Limit hours of operation to hours to be more compatible with surrounding uses.
2.	Buffering	Require more of a buffer than what is otherwise required by this chapter. Buffering may include landscaping, walls or fences, berms, and other features to physically separate adjoining uses.
3,	Maximum floor area	Establish a maximum floor area that may be less than what is otherwise allowed.
4.	Maximum number of patrons	Limit the size of the use by establishing maximum patron loads, often by seats and/or tables
5	Uses within buildings	Limit commercial uses to the first floor of a multistory building
6,	Number and/or location of entrances	Design the site and building so that entrances are located in areas away from adjoining properties.
7	Outdoor activity	Restrict locations and/or times of outdoor activity.
8,	Oufdoor storage	Establish a maximum area for outdoor storage that may be less than what is otherwise allowed.
9.	Take-out food service	Prohibit drive-up service windows and/or walk-up service windows in certain areas of the property (e.g., near a residential use). If these are allowed, limitations could be set.
10,	Delivery services	Prohibit deliver services that entail frequent trips or establish upper limits on the activity.
11.	Signage	Prohibit signage in areas of the property that may cause an impact on surrounding areas.

- B. Limitation on imposing conditions. A condition of approval shall not lessen a development standard or other requirement contained in this chapter.
- C. Effect on contracts with another party. The review authority shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.
- D. Special condition for business as properly owner. As a condition of approval of a conditional use, the property owner if it is a business entity, such as a limited liability company or a corporation, shall for the life of the conditional use continuously maintain a registered office in the state of Wisconsin as evidenced by registration with the Wisconsin Department of Financial Institutions.

70,537 Conditional use performance standards

- A. Generally. This section describes performance standards for the regulation of uses and to establish an objective and equitable basis for control and to ensure that the community is adequately protected from potential hazardous and nuisance-like effects. These performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or zoning district. In addition, these performance standards are intended to comply with other applicable local, state and federal codes and standards. All structures, lands, air, and water shall hereafter comply with the performance standards set forth in this section.
- B. Odors: No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor. The Plan Commission and/or Village Board reserves the right to request an odor control plan from the applicant to identify potential odors and implement recommendations from the plan.
- C. Fire and explosive hazards.

⁷ Commentary: See s. 62,23(7)(gm), Wtt. Statt. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

- All uses involving the manufacturing, utilization, processing, or storage of flammable and explosive
 materials shall be provided with adequate safety devices against the hazard of fire and explosion
 and with adequate firefighting and fire suppression equipment and devices as may be required by
 the Fire Prevention Gode.
- All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have noncombustible exterior walls and an automatic fire extinguishing system.
- 3. The storage of fuels and other materials that produce flammable or explosive vapors shall be permitted only after review and approval by the village fire department and in accord with their requirements to minimize fire and explosive hazards.

D. Glare, heat and external lighting.

- 1. No operation or activity shall produce any intense lighting, glare or heat with the source directly visible beyond the boundary of the property line, Operations producing light, glare, or heat shall be conducted within an enclosed building.
- 2. External lighting shall be shielded so that light rays do not adversely affect adjacent uses.

E. Water quality, and a second process of the second secon

- 1. No activity shall locate, store, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might runoff, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nulsances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness, or be harmful to human, animal, plant, or aquatic life.
- No activity shall withdraw water or discharge any liquid or solid materials so as to exceed or contribute toward exceeding the minimum standards and those other standards and the application of those standards set forth in Wis. Adm. Code NR 102 or in other applicable Chapters which regulate water quality.
- F. Noise. No operation or activity shall transmit any noise beyond the boundaries of the property so that it becomes a nuisance.
- G. Vibration. No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground- or structure-bome vibrational motion necessary to cause a reasonable person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects. Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities are exempt from this standard.
- H. Traffic Impact. The Plan Commission and/or the Village Board reserves the right to require a traffic impact study in order to identify impacts to adjacent properties and roadways and to identify improvements or actions required to minimize or eliminate impacts. No use shall be approved unless the applicant implements the conclusions and recommendations of the study. The traffic study shall be prepared by a registered professional engineer in accordance with the following standards:
 - 1. Manual on Transportation Studies (institute of Transportation Engineers (ITE))
 - 2. Traffic Impact Analysis Guidelines (Wisconsin Department of Transportation)
 - 3, Manual on Uniform Traffic Control Devices (Federal Highway Administration)
 - 4. Irip Generation Manual (Institute of Transportation Engineers)
 - 5. Other local, county or state standards

70.538 Standard terms for an approved conditional use

The terms and conditions listed below are automatically incorporated into a conditional use order authorizing a use, unless otherwise stated in the conditional use order.

- 1. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In case of a question as to the classification of use, the question shall be submitted to the Plan Commission for determination.
- 2. No use is hereby authorized unless the use is conducted in a lawfut, orderly, and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a walver, exemption or exception to any law, ordinance, order or rule of either the municipal governing body, the Washington County of, the State of Wisconsin, the United States of America or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by Village ordinance or other law.
- The approved conditional use shall be confined to the subject property described, without extension of expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Plan Commission as being in compliance with all pertinent ordinances.
 - 4. All buildings and grounds shall be maintained in a neat, attractive and orderly way.
 - 5. The property shall comply with all rules and regulations of the Village of Richfield and the local fire department, including submission to routine inspections by the village staff and fire department staff,
 - 6. Prior to the execution of the conditional use permit, the applicant must obtain any and all approvals that must be obtained before the use may be established or the commencement of any land-disturbing activity related to the approved conditional use.
 - 7. Should the permitted conditional use be abandoned in any manner, or discontinued in use for 12 months, or continued other than in strict conformity with the conditions of the ariginal approval, or should the petitioner be delinquent in payment of any monies due and owing to the Village, or should a change in the character of the surrounding area or the use itself cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the conditional use may be terminated by action of the Plan Commission, pursuant to the enforcement provisions of this conditional use order, and all applicable ordinances.
 - 8. Any change, addition, modification, alteration and/or amendment of any aspect of this conditional use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises, structures, lands or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.
 - 9. Unless this conditional use order expressly states otherwise, plans that are specifically required by this conditional use order may be amended upon the prior approval of the Plan Commission if the Plan Commission finds the plan amendment to be minor and consistent with the conditional use permit. Any charge in any plan that the plan commission feels, in its sole discretion, to be substantial shall require a new permit, and all procedures in place at the time must be followed.
 - 10. As a condition precedent to the issuance of the conditional use permit, the owner of the subject property shall approve the issuance of this conditional use order upon the terms and conditions described herein in writing, and the petitioner is required to accept the terms and conditions of the same in its entirety in writing.
 - 11. Petitioner shall, on demand, reimburse the Village for all costs and expenses of any type that the Village incurs in connection with this application, including the cost of professional services incurred by the Village (including engineering, legal, planning and other consulting tees) for the review and preparation of the necessary documents or attendance at meetings or other related professional services for this application, as well as for any actions the Village is required to take to enforce the conditions in this conditional approval due to a violation of these conditions,
 - 12. Any unpaid bills owed to the Village by the subject property owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Village; shall be placed upon the tax roll for the subject property if not paid within 30 days of billing by the Village, pursuant to s. 66,0627, Wis, Stats. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Village, including possible cause for termination of this approval.

- 13. The petitioner is obligated to file with the village clerk a current mailing address and current phone number at which the petitioner can be reached, which must be continually updated by the petitioner if such contact information should change, for the duration of the conditional use, if the petitioner fails to maintain such current contact information, the petitioner thereby automatically waives notice of any proceedings that may be commenced under this conditional approval, including proceedings to terminate this conditional use.
- 14. All conditions of approval imposed by duly adopted motion of the Village Board in its consideration of the petitioner's application, as noted in the minutes of the Village Board meeting at which approval was granted, are specifically incorporated herein by reference.
- 15. Should any paragraph or phrase of this conditional use order be determined by a court to be unlawful, lilegal or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the conditional use order and the remainder shall continue in full force and effect.
- 16. If any aspect of this conditional use order or any aspect of any plan contemplated and approved under this conditional use is in conflict with any other aspect of the conditional use or any aspect of any plan of the conditional use, the more restrictive provision shall be controlling as determined by the Plan Commission.
- 17. If the property owner/operator is a business entity, such as a limited liability company or a corporation, such entity shall for the life of the conditional use continuously maintain a registered office in the state of Wisconsin as evidenced by registration with the Wisconsin Department of Financial Institutions.
- 18. The property owner shall not change the size and/or shape of the subject property by any means without the approval of the Village Board, if the Village Board determines that a proposed change is substantial with regard to the overall size of the parcel and/or configuration, such change shall require issuance of a new conditional use approval pursuant to the requirements in effect at the time of application.
- 19. This approval is given under the Village's zoning code and is not to be, in any way, interpreted to abrogate any private rights other property owners may have pursuant to deed restrictions or restrictive covenants.
- 20. If this conditional use terminates for any reason, the property owner is obligated to remove any improvements specifically related to the conditional use and which cannot be utilized for an approved use (i.e., a use permitted by right or a different conditional use as approved).
- 21. In the event the subject property is found to be in violation and then brought into compliance, the Village Board reserves the right to impose periodic reviews to ensure continued compliance.

70.539 Application form and content

The application submittal shall include an application form as may be used by the Village and a project map prepared at an appropriate scale depicting the information listed in Appendix F.

70,540 Staff report content

The staff report should contain preliminary findings for the decision oriteria listed in this division and other information deemed appropriate.

70.541 Content of decision document

- A. Approval. If the application for a conditional use is approved, the decision document should include the following:
 - 1. a statement that the conditional use is approved;
 - 2. a description of the conditional use;
 - 3. a description of where the conditional use will occur on the property;
 - 4. reasons for the decision based on the afterial listed in this division;
 - 5. conditions of approval that must be satisfied prior to the establishment of the conditional use, if any;
 - 6. conditions of approval that must be compiled with during the life of the conditional use, if any;

- a statement indicating that the property owner must sign the decision document and return it to the zoning administrator to acknowledge acceptance of the same;
- 8. a statement that the applicant may appeal the decision to a court of competent jurisdiction;
- a statement that an aggrieved person, other than the applicant, may appeal the decision to a court
 of competent jurisdiction and that any work done by the applicant as authorized by the approval is
 done at the applicant's risk;
- a statement indicating the nature of the approval (i.e., personal to the property owner or runs with the land);
- 11. other information the Village Board or zoning administrator deems appropriate;
- 12. the signature of the zoning administrator on behalf of the Village Board; and
- 13. the date of the decision.
- B. Denial. If the application for a conditional use is denied, the decision document should include the following:
 - 1. a statement that the conditional use is denied,
 - 2. a description of the project, including acreage and proposed use characteristics,
 - 3. reasons for the decision based on the criteria listed in this division,
 - a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
 - 5. a statement that the decision may be appealed as provided for in this division,
 - 6. other information the Village Board or zoning administrator deems appropriate,
 - 7. the signature of the zoning administrator on behalf of the Village Board, and
 - 8. the date of the decision.

70.542 Term for an approval

A conditional use order authorizing a conditional use shall generally have 5-year terms unless otherwise specified in the conditional use order. The order shall describe an administrative renewal process to allow for streamlined renewal of the conditional use order with a provision that allows the Plan Commission and/or the Village Board to remove the conditional use order from automatic renewal if there are concerns with compliance with the conditional use order or concerns raised by the public about the applicant's operations. If the Plan Commission or the Village Board pulls the conditional use order from automatic approval the conditional use order shall remain in effect while the Plan Commission provides due process to the applicant in reviewing the conditional use order and its potential renewal.

70.543 Effect of approval

- A. Generally. Unless otherwise specified in the conditional use order, approvals run with the land.
- B. Temporary uses. If a use is listed as a temporary use in Accessed. And is approved by the Village Board as a conditional use, the use may be re-established with the written approval of the zoning administrator if he or she determines that the use to be re-established is substantially the same as what was originally approved and that the approved use did not create any potentially adverse impacts on the public health, safety, or welfare.

70.544 Expiration of an approval

A. Non-establishment of use. If the zoning administrator determines that substantial work as authorized by a conditional use approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 15 of this article. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 6 months, provided (1) the permit holder requests the extension prior to the expiration of the approval, (2) the permit holder clearly demonstrates that circumstances beyond his or her control

- prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.
- B. Cessation of use. If the zoning administrator determines that a conditional use has ceased to operate for any reason, whether intentional or otherwise, for more than 12 continuous months, he or she shall initiate the process to terminate the approval pursuant to Division 13 of this article.

70.545 Amendment of an approved conditional use

Following approval of a conditional use, the Plan Commission shall review all proposed changes to the approval. If in the opinion of the Plan Commission, the proposed change constitutes a minor alteration, the Plan Commission may approve the requested change in writing at a regular or special meeting of the Plan Commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

70.546 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

70.547 Effect of comprehensive plan

Pursuant to Wis. Stats. 66.1001(2m)(b), a conditional use approval that may be issued by the Village Board does not need to be consistent with the Village's adopted comprehensive plan.

70.548 to 70.550

Reserved

DIVISION 4 WIRELESS TELECOMMUNICATION FACILITY

70.551 Review procedure

- A. New telecommunication tower and Class 1 collocation. The general steps outlined below shall be used to review an application for a new telecommunication tower and a Class 1 collocation as designated in the land-use matrix (Appendix A).
 - Submittal of application materials. The applicant submits a completed application to the zoning administrator along with the application fee as may be established by the Village Board.
 - 2. Determination of completeness. The zoning administrator reviews the application and determines whether the application is complete. If the application includes all of the required information, the application shall be found to be complete. The zoning administrator notifies the applicant in writing within 10 days of receiving the application if it is found not to be complete, and such notice shall specify in detail the required information that was incomplete. Applicants are allowed to resubmit their application as often as necessary until it is complete.
 - Review date. When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
 - 4. General notice. Consistent with Division 2 of Article 4, the zoning administrator provides for a class 2 public notice, property owner notice, and meeting agenda notice.
 - Staff report preparation and distribution. The zoning administrator prepares a written staff report and provides a copy of it to each member of the Plan Commission, the applicant, and any other interested person upon request.
 - 6. **Public hearing**. Allowing for proper notice, the Plan Commission conducts a public hearing to review the application consistent with Division 2 of Article 4. Prior to the close of the public hearing, the applicant or the Plan Commission may request a continuance consistent with Division 3 of Article 4.
 - Staff follow-up. If the Plan Commission does not render a decision immediately following the public hearing, the Plan Commission may direct the zoning administrator to prepare a preliminary decision document.

(Class II Public Notice)

NOTICE OF PUBLIC HEARING

VILLAGE OF RICHFIELD

Thursday, March 19, 2020

PLEASE TAKE NOTICE:

Notice is hereby given, pursuant to Section 19.84, Wis. Stats., and provisions of the Village of Richfield Code of Ordinances, that the Village of Richfield Village Board will conduct two (2) public hearing on Thursday, March 19, 2020 at 7:00 p.m. at the Village Hall, located at 4128 Hubertus Road, Hubertus, WI 53033 to consider the following:

- 1) Ordinance amendment to repeal and recreate Section 70.241 of the Village Code related to Conditional Use Administration Village Board, petitioners
- 2) Ordinance amendment to amend 70.207(D)(2) in the P-1, Parks and Recreation District related to "Camping Cabins" in Glacier Hills Park as a conditional use Washington County, petitioners For information regarding these petitions, please contact Jim Healy, Village Administrator at (262)-628-2260. This application is available during normal business hours. All interested parties will be heard. Requests from persons with disabilities who need assistance to participate in this meeting or hearing should be made to the Village Clerk's Office at (262)-628-2260 with as much advanced notice as possible. Dated this 28th day of February 2020

Publication Dates:

March 5, 2020 March 12, 2020

Jim Healy Village Administrator Village of Richfield 4128 Hubertus Road Hubertus, WI 53033 (262)-628-2260

PLAN COMMISSION COMMUNICATION FORM

5c.

MEETING DATE: March 5, 2020

SUBJECT: Zoning Code Recodification Discussion

DATE SUBMITTED:

February 28, 2020

SUBMITTED BY:

Jim Healy, Village Administrator

POLICY QUESTIONS: NOT APPLICABLE, DISCUSSION ONLY.

ISSUE SUMMARY:

At the February Plan Commission meeting, Consultant Planner Schwecke and I presented another segment of our Zoning Code which relates to "process and procedures" for the Village's application process as "homework". We've also provided a table entitled "Village of Richfield - Zoning Code Rewrite Project; Summary of Existing and Proposed Review Authority". This outlines whether the process is "Existing", "Proposed", or a "New Procedure". Our intent for the evening is to not focus on "Existing" procedures unless there is a "Proposed" modification to this area of our existing Code. While it may be ambitious of us to believe we can get through the 10 Sections of review materials but that is our goal for the night. While this portion of the Code may not seem very exciting, it is the "nuts and bolts" and foundation of everything our Zoning Code is based on and is very important. Consider this the cornucopia of applications the Plan Commission reviews on an annual basis. The intent of sharpening this Section of our Code is to better align the verbiage with our actual practices and some slight modifications based on the recommendations of our Village Attorney. The most notable modification being the potential for having joint public hearings with Code Amendments, Planning Development Districts, Conditional Uses, and Conversations of Nonconforming Uses. During my tenure at the Village, our attorney has recommended joint public hearings like we did in the early 2010's. Several years later, it was his recommendation to cease that practice. Now, it is a recommended practice again.

Consultant Planner Schwecke and I will be circulating another table on Thursday night, like the one created by Village Staff and our Consultant Planner in our packet tonight, which will outline the details of the "homework" for April. This Section of the Code discusses the "Administrative Bodies" described in our Code. It is eight (8) pages long and is included in the Attachments contained herein. The Administrative Bodies in this Section of Code are the Plan Commission, Architectural Review Board, Zoning Board of Appeals, and Zoning Administrator. The correlating Section of our Existing Code is "Administration and Enforcement Generally". You will see that it is very plainly written, but there are some administrative changes we will highlight for the Plan Commission during your review in the month of March.

FUTURE IMPACT AND ANALYSIS:

REVIEWED BY:

Village Deputy Clerk

Forward to Village Board: No.

Additional Approvals Needed: No.

Signatures Required: No.

ATTACHMENTS

- 1. Village of Richfield Zoning Code Rewrite Project Summary of Existing and Proposed Review Authority (dated January 9, 2020)
- 2. "Article 5- Specific Procedural Requirements" draft date December 26, 2019
- 3. Article 3: Administrative Bodies
- 4. Article 3 Summary Table of Existing and Proposed Language (To be presented on 3/5)

STAFF RECOMMENDATION:

None, discussion only.



PLAN COMMISSION COMMUNICATION FORM

MEETING DATE: March 5, 2020

SUBJECT:

Zoning Code Recodification Discussion

DATE SUBMITTED: February 28, 2020

SUBMITTED BY: Jim Healy, V	Village Administrator				
APPROVED FOR SUBMITTAL BY:	VILLAGE CLERK USE ONLY BOARD ACTION TAKEN				
Village Staff Member Village Administrator	Resolution No. Ordinance No. Approved Other	Continued To: Referred To: Denied File No.			

ARTICLE 3 ADMINISTRATIVE BODIES

DIVISION 1 PLAN COMMISSION

Homework

for

70.300 Establishment

A Plan Commission is established pursuant to s. 62.23(1), Wis. Stats., to undertake the responsibilities as defined in this chapter and as allowed by state law.

70.301 Authority

- A. **Generally.** The Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote the proper planning for the Village of Richfield, whether enumerated in this section or not.^[1]
- B. **Right to enter property**. The Plan Commission, along with its individual members and authorized agents, may enter upon land which is the subject of a pending application it has authority to act on as set forth in s. 70.104.^[2]
- C. **Staff.** The Plan Commission may employ, or contract for the services of, such professional planning technicians and staff as are considered necessary for the discharge of the duties and responsibilities of the commission, provided such expense does not exceed the appropriation that may be made for the commission by the Village Board for such purpose. [3]
- D. Comprehensive plan. The Plan Commission may by resolution recommend to the Village Board the adoption of or amendment to a comprehensive plan. [4]
- E. Code amendments. The Plan Commission shall act on proposed amendments of this chapter as set forth in Article 5.
- F. **Development review.** The Plan Commission shall render decisions and recommendations relating to development applications required by this chapter.
- G. Interpretation of this code. The Plan Commission shall act on interpretations of this chapter as set forth in Article 5.

Notes:

- [1] Commentary: See s. 62.23(4), Wis. Stats
- [2] Commentary: See s. 62.23(4), Wis. Stats
- [3] Commentary: See s. 62.23(1)(e), Wis. Stats
- [4] Commentary: See s. 62,23(2), Wis, Stats.

70.302 Composition and appointment of members

- A. **Number and appointment.** The Pian Commission shall consist of 7 regular members, 5 of whom are residents of the Village who do not hold an elected office in the Village and are appointed by the Village Board. Subject to the confirmation of the Village Board, the village president shall appoint the two other members. One or both of such appointees may be Village Board members. The village president may include himself/herself as one of the Village Board member appointees.
- B. **Terms.** Each citizen member shall be appointed to a 3-year term. [1] Initial appointments in May 2008 shall be staggered as determined by the Village Board. The term of a village trustee shall be for one year and can be reappointed for consecutive terms without limitation. The term of the village president shall coincide with his or her elected term.
- C. **Considerations in making citizen appointments.** Citizen members shall be persons of recognized experience and qualifications and shall be residents of the Village of Richfield, [2]
- D. Conditions for removal. A citizen member shall be removed from the Plan Commission and the member's office declared vacant when the member moves outside of the village. If the village president or a village trustee serving on the commission resigns or is removed from his or her office, or his or her term expires, his or her term on the commission shall automatically terminate.

Notes:

- [1] Commentary: See s. 62,23(1)(d), Wis. Stats.
- [2] Commentary: See s. 62.23(1)(a), Wis. Stats.

70.303 Officers

The village president may also be the chairperson of the Plan Commission or may appoint a citizen member as chair, for a one-year term in that capacity. The Plan Commission shall elect a vice chair annually in June. If the chairperson is absent for a meeting, the vice chair shall preside over the meeting. The commission may create and fill other offices.

70.304 Commission procedures

The Plan Commission may adopt rules of procedure to carry out its purposes. All such rules shall conform to this chapter, other village regulations, and state law and shall be filed in the office of the village clerk.

Notes

[1] Commentary: See s. 62.23(2), Wis. Stats.

70.305 Meetings

Meetings of the Plan Commission are open to the public unless conducted in close session as authorized by state law. All meetings, except site visits, shall be conducted in the village hall or in such other public place as may be selected by the commission.

70.306 Meeting minutes

The Plan Commission shall keep minutes of its proceedings. The commission may amend previously adopted minutes provided such revision is based on substantive evidence.

70.307 Schedule of meetings

Meetings of the Plan Commission are held at the call of the chairperson of the commission and at such other times as the commission may determine.

70.308 Voting and quorum

- A. **Requirements for quorum**. A quorum of the Plan Commission shall consist of 4 voting members. If there is not a quorum present, the fact shall be entered in the minutes, and the meeting adjourned.
- B. **Requirements for voting.** Unless otherwise specifically stated, a decision of the Plan Commission shall be approved by a majority vote of the members present at a meeting in which a quorum is in attendance and voting.
- C. **Disqualification or voluntary abstention**. A member of the Plan Commission shall abstain from voting on a particular issue or shall be disqualified by majority vote of the remaining members present when (1) the member has a direct financial interest in the outcome of the matter at issue; (2) the member has such close personal ties to the applicant, the project, or to a party opposing the application that the member cannot reasonably be expected to exercise sound judgment in the public interest; (3) the member would violate the code of ethics set forth in ch. 19. Wis. Stats., or any ethics code as may be adopted by the village; (4) participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or (5) another law precludes participation.

70.309 Compensation of members

The Village Board shall establish annually the compensation to be paid to members to defray expenses related to service on the Plan Commission.

70.310 Official oath

Citizen members of the Plan Commission shall take the official oath as required by s. 19.01, Wis. Stats. The village clerk shall keep a copy of such oaths.

70.311 to 70.319 Reserved

DIVISION 2 ARCHITECTURAL REVIEW BOARD

70.320 Establishment

An Architectural Review Board is established to undertake the responsibilities as defined in this chapter and as allowed by state law.

70.321 Authority

The Architectural Review Board shall have the powers and duties of hearing, reviewing and acting upon items as brought forward by the zoning administrator and/or building inspector, to provide recommendation to the Plan Commission. The Board may call upon the review of other specialists, at the cost of the applicant, to determine the integrity and validity of the building and/or project. The Village Board may delegate other duties and responsibilities to this board on an as-needed basis.

70.322 Composition and appointment of members

The Architectural Review Board shall consist of 5 members. The village president, subject to confirmation by the Village Board, shall appoint one member, and the Village Board shall appoint the other 4 members. No more than one of the appointees may be a Village Board member. No more than one of the appointees may be a Plan Commission member. Initial appointments shall be staggered as determined by the Village Board. At least one member shall be an architect. The remaining 4 members shall have experience in, but not limited to, the following fields: architectural products, real estate, construction, development, design or other specialties involving architectural design, site plan/technical specification reading and interpretation, development finances, etc.

70.323 Officers

The person appointed by the village president, subject to the confirmation by the Village Board, will serve as the chairperson. If the chairperson is absent for a meeting, the zoning administrator or his or her designee shall call the meeting to order and the Board shall elect a chair for that meeting.

70.324 Board procedures

The Architectural Review Board may adopt rules of procedure to carry out its purposes. All such rules shall conform to this chapter, other village regulations, and state law and shall be filed in the office of the village clerk.

70.325 Meetings

Meetings of the Architectural Review Board are open to the public unless conducted in close session as authorized by state law. All meetings shall be conducted in the village hall or in such other public place as may be selected by the board.

70.326 Meeting minutes

The Architectural Review Board shall keep minutes of its proceedings. The board may amend previously adopted minutes provided such revision is based on substantive evidence.

70.327 Schedule of meetings

Meetings of the Architectural Review Board are held at the call of the chairperson of the board and at such other times as the board may determine.

70.328 Voting and quorum

- A. Requirements for quorum. A quorum of the Architectural Review Board shall consist of 3 voting members. If there is not a quorum present, the fact shall be entered in the minutes, and the meeting adjourned.
- B. **Requirements for voting.** Unless otherwise specifically stated, a decision of the Architectural Review Board shall be approved by a majority vote of the members present at a meeting in which a quorum is in attendance and voting.
- C. **Disqualification or voluntary abstention**. A member of the Architectural Review Board shall abstain from voting on a particular issue or shall be disqualified by majority vote of the remaining members present when (1) the member has a direct financial interest in the outcome of the matter at issue; (2) the member has such close personal ties to the applicant, the project, or to a party opposing the application that the member cannot reasonably be expected to exercise sound judgment in the public interest; (3) the member would violate the code of ethics set forth in ch. 19. Wis. Stats., or any ethics code as may be adopted by the village; (4) participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or (5) another law precludes participation.

70.329 Meetings

Meetings of the Architectural Review Board are open to the public unless conducted in close session as authorized by state law.[1] Meetings shall be conducted in the village hall or in such other public place as may be selected by the board.

Notes:

[1] Commentary: See s. 62.23(7)(e)(3), Wis. Stats

70.330 Meeting minutes

The Architectural Review Board shall keep minutes of its proceedings, showing the vote of each voting member on each question, or, if absent or failing to vote, indicating such fact.^[1] The board may amend previously adopted minutes provided such revision is based on substantive evidence.

Notes:

[1] Commentary: See s. 62.23(7)(e)(3), Wis. Stats.

70.331 Schedule of meetings

Meetings are held at the call of the chairperson of the Architectural Review Board and at such other times as the Architectural Review Board may determine.

70.332 Compensation of members

The Village Board shall establish annually the compensation to be paid to members to defray expenses related to service on the Board.

70.333 Official oath

Citizen members of the Architectural Review Board shall take the official oath as required by s. 19.01, Wis. Stats. The village clerk shall keep a copy of such oaths.

70.334 to 70.329 Reserved

DIVISION 3 ZONING BOARD OF APPEALS

70.330 Establishment

A Zoning Board of Appeals is established pursuant to s. 62.23(7)(e), Wis. Stats., to undertake the responsibilities as defined in this chapter and state law.

70.331 Authority

- A. Administrative appeals. The Zoning Board of Appeals shall hear and decide administrative appeals consistent with the requirements in Article 5 where it is alleged that the zoning administrator or building inspector (1) failed to act as required by this chapter; (2) made an error in issuing a permit or in denying an application; (3) made an error in enforcement; or (4) made an error in an interpretation or any other determination. In exercising these powers, the board may compel the administrative official to act as required or reverse or affirm, in whole or in part, or modify the order, requirement, decision, or determination being appealed and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the officer-from whom the appeal is taken.
- B. Variances. The Zoning Board of Appeals peals shall hear and decide variances consistent with the requirements in Article 5.
- C. **Right to enter**. The Zoning Board of Appeals, its individual members, employees, and authorized agents, may enter upon land which is the subject of a pending application as set forth in s. 70.403.
- D. Amendments to this code. The Zoning Board of Appeals may recommend amendments to this chapter it deems advisable.

70.332 Authority of chairperson

The chairperson of the Zoning Board of Appeals or acting chairperson may administer oaths and compel the attendance of witnesses. [1]

Notes:

[1] Commentary: See s, 62.23(7)(e)(3), Wis. Stats.

70.333 Composition and appointment of members

- A. **Number and appointment**. The Zoning Board of Appeals shall consist of 5 regular members as appointed by the village president, subject to confirmation by the Village Board.[1]
- B. **Alternates.** The village president, subject to confirmation by the Village Board, shall appoint 2 alternates to the Zoning Board of Appeals for staggered 3-year terms and annually appoint one of them as the first alternate and the other as the second alternate. [2]
- C. Considerations in making appointments. Regular members and alternate members of the Zoning Board of Appeals shall reside in the Village of Richfield. A village employee shall not serve as a regular member or as an alternate.

- D. **Terms.** Each regular member on the Zoning Board of Appeals shall be appointed to hold office for a period of 3 years, except that for regular members 2 of those first appointed shall serve for one year, 2 for 2 years, and the fifth for 3 years.
- E. Vacancies. Vacancies on the Zoning Board of Appeals shall be filled for the unexpired term of any member or alternate whose term becomes vacant.
- F. **Removal**. The village president may remove a regular member or an alternate from the Zoning Board of Appeals.

Notes:

- Commentary: See s. 62,23(7) (e) (2), Wis. Stats.
- [2] Commentary: See s. 62.23(7)(e)(2), Wis. Stats.

70.334 Officers

The village president shall designate one regular member to be the chairperson. The Zoning Board of Appeals may designate other such officers deemed necessary. If the chairperson is absent for a meeting, the zoning administrator or his or her designee shall call the meeting to order and the Board shall elect a chair for that meeting.

70.335 Board procedures

The Zoning Board of Appeals may adopt rules of procedure to carry out its purposes. All such rules shall conform to this chapter, other village regulations, and state law and shall be filed in the office of the village clerk.

70.336 Meetings

Meetings of the Zoning Board of Appeals are open to the public unless conducted in close session as authorized by state law. [1] Meetings, except for site visits, shall be conducted in the village hall or in such other public place as may be selected by the board.

Notes:

[1] Commentary: See s. 62.23(7)(e)(3), Wis. Stats.

70.337 Meeting minutes

The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each voting member on each question, or, if absent or failing to vote, indicating such fact.^[1] The board may amend previously adopted minutes provided such revision is based on substantive evidence.

Notes

[1] Commentary: See s. 62.23(7)(e)(3), Wis. Stats.

70.338 Schedule of meetings

Meetings are held at the call of the chairperson of the Zoning Board of Appeals and at such other times as the Zoning Board of Appeals may determine.

70.339 Voting and quorum

- A. Requirements for quorum. A quorum shall consist of 3 voting members. If there is not a quorum present, the fact shall be entered in the minutes, and the meeting adjourned.
- B. Requirements for voting. A decision of the Zoning Board of Appeals shall be by majority vote of the members present at a meeting in which a quorum is in attendance and voting.[1]
- C. **Disqualification or voluntary abstention.** A member shall abstain from voting on a particular issue or shall be disqualified by majority vote of the remaining members present when (1) the member has a direct financial interest in the outcome of the matter at issue; (2) the member has such close personal ties to the applicant, the project, or to a party opposing the application that the member cannot reasonably be expected to exercise sound judgment in the public interest; (3) the member would violate the code of ethics set forth in ch. 19. Wis. Stats., or any ethics code as may be adopted by the

- village, (4) participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or (5) another law precludes participation.
- D. **Voting by alternates.** The first alternate may vote only when one of the regular members of the board is absent or is not able to vote on a pending matter. The second alternate may vote only when the first alternate is absent or is not able to vote or when more than one regular member is absent is or is not able to vote. [2]

Notes:

- [1] Commentary; See s. 62.23(7)(e)(3m), Wls. Stats.
- [2] Commentary; See s. 62.23(7)(e)(2), Wis. Stats.

70.340 Compensation of members

The Village Board shall establish annually the compensation to be paid to members to defray expenses related to service on the Board

70.341 Official oath

Members of the Zoning Board of Appeals shall take the official oath as required by s. 19.01, Wis. Stats. The village clerk shall keep a copy of such oaths.

70.342 to 70.349 Reserved

DIVISION 4 ZONING ADMINISTRATOR

70,350 Establishment

The position of zoning administrator is established to undertake the responsibilities as defined in this chapter and state law.

70.351 Appointment

The Village president shall appoint, subject to confirmation by the Village Board, and supervise the zoning administrator.

70.352 Authority

The zoning administrator shall administer, supervise, and enforce the provisions of this chapter and in furtherance of those duties shall have the authority to:

- 1. meet with applicants to advise them of the requirements of this chapter;
- 2. issue administrative permits;
- 3. revoke or modify any administratively-issued permit or interpretation with reasonable cause;
- 4. keep a written record of permits issued, interpretations made, inspections, work approved, enforcement activities, and other similar official actions;
- prepare staff reports consistent with this chapter and make recommendations as may be required or deemed appropriate;
- 6. work with the village clerk in the preparation of meeting agendas for the Plan Commission and Zoning Board of Appeals and submit them to the appropriate chairperson for review and approval;
- 7. develop, amend, and utilize application forms, checklists, and other forms he or she deems appropriate to administer the development review processes contained in this chapter;

- 8. recommend amendments to this chapter and to other chapters of the municipal code of the Village of Richfield relating to land use and development;
- 9. assist the building inspector and village attorney with enforcement proceedings as may be requested; and
- 10. undertake any other activity not enumerated in this section but necessary to administer and enforce this chapter or any other section of the municipal code of the Village of Richfield as may be appropriate.

70.353 Conflict of interest

The zoning administrator and/or authorized designee of the zoning administrator shall not perform work on a proposed or approved development project in which he or she has a direct financial interest in the outcome of the matter at issue or otherwise has a conflict of interest.

Village of Richfield – Zoning Code Rewrite Project Summary of Existing and Proposed Review Authority – January 9, 2020

Тур	e of Application	S. Cold Strategy	Public Hearing	Zoning Admin.	Arch. Review Committee	Plan Commission	Village Board	Zoning Board of Appeals	Court of Competen Jurisdiction
1.	Code amendment – text and map	Existing	PC	SR	E TYDE THE COME SETTION (NEW YORK CO.)	R	D	-	CA
		Proposed	Joint PC + VB	SR	-	R	D	8	CA
2.	Planned development district	Existing	PC	SR	-	R	D	N <u>-1</u> 0	CA
		Proposed	Joint PC + VB	SR	-	R	D	-	CA
3.	Conditional use	Existing	PC	SR	-	R	D	-	CA
		Proposed	Joint PC + VB	SR	-	R	D	:=:	CA
	Wireless telecommunication facility New tower & Class 1 collocation	New procedure	PC	SR	5 .	D	-		CA
•	Class 2 collocation		-	D	2/	3 <u>12</u>	-	LA	CA
5.	Site plan/plan of operation	Existing	-	SR	•	D	-	-	CA
6.	Architectural review (building plans)	Existing	-	SR	R	D	12	-	CA
7.	Special exception	New procedure	-	SR	•	D	-	7	. CA
8.	Zoning permit	Existing	ē	D	-	-	72	LA	CA
9.	Floodplain permit	Existing	Ē	D	-	-	/=	LA	CA
10.	Berm permit	Existing	_	D	-	-	-	LA	CA
11.	Temporary use permit - 30 days or less	Existing	<u>.</u>	D	=	-	-	LA	CA
12.	Temporary use permit - more than 30 days but less than 90	Existing	-	SR		D		_	CA
13.	Termination of use - voluntary	New procedure	¥ .	SR	÷ ;	-	D	-	CA
	Termination of use - involuntary	Existing	-	SR		R	D	-	CA
14.	Registration of a nonconforming use	New procedure		SR	-	R	D	-	CA
15.	Conversion of a nonconforming use	Existing	-	SR		_		D	CA
	* **	Proposed	Joint PC + VB	SR	-	R	D		CA
16.	Expansion of a nonconforming building	New procedure	-	SR	-	R	D	-	CA
17.	Code interpretation	Existing	-	SR	-	-	_	D	CA
		Proposed change	2	D	N=1	LA	2 0		CA
18.	Administrative appeal	Existing	Appeals Board	SR	-	3 7	= 8	D	CA
19.	Variance	Existing	Appeals Board	SR	8 - 8	1 -0	14 %	D	CA

SR – staff report; R – recommendation; D – final decision; LA – local appeal; CA – court appeal

ARTICLE 5 SPECIFIC PROCEDURAL REQUIREMENTS

Divisions

- Code amendment
- 2. Planned development district
- 3. Conditional use
- 4. Wireless telecommunication facility
- 5. Site plan and plan of operation
- Architectural review
- 7. Special exception
- 8. Zoning permit
- 9. Floodplain permit
- 10. Berm permit
- 11. Temporary Use 30 Days or Less
- 12. Temporary Use More than 30 Days but Less than 90 Days
- 13. Termination of approval
- 14. Registration of a nonconforming use
- 15. Conversion of a nonconforming use
- 16. Expansion of a nonconforming building
- 17. Code interpretation
- 18. Administrative appeal
- 19. Variance

DIVISION 1 CODE AMENDMENT

70.500 Generally

From time to time, it may be necessary or desirable to amend the text of this chapter and the zoning map. This division describes the procedures and requirements to amend this chapter and the zoning map.

70.501 Initiation

Any of the following may submit an application to amend the text of this chapter or the zoning map:

- 1. a property owner in the area to be affected by the proposed amendment,
- 2. the zoning administrator,
- 3. the Plan Commission,
- 4. the Zoning Board of Appeals, and
- 5. the Village Board.

70.502 Review procedure¹

The general steps outlined below shall be used to amend the text of this chapter and the zoning map.

1. Submittal of application materials. The applicant submits a complete application to the zoning administrator along with the application fee as may be established by the Village Board.

Commentary: See s. 62.23(7)(d), Wis. Stats.

- 2. **Distribution to Department of Natural Resources.** If the proposed amendment would revise floodplain or shoreland-wetland regulations in this chapter, the zoning administrator sends a copy of the application to the regional office of the Wisconsin Department of Natural Resources within 5 work days of receipt.
- 3. **Determination of completeness.** The zoning administrator reviews the submittal within 10 days of receiving the application and other required materials to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record.
- 4. **Review date**. When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
- 5. **Special notice to specified municipalities.** At least 10 calendar days prior to the date of the public hearing, the zoning administrator gives notice of the proposed amendment to the clerk of any municipality whose boundary are within 1,000 feet of any lands included in the proposed amendment.
- 5. Special notice to Department of Natural Resources. If the proposed amendment would revise the floodplain regulations in this chapter, the zoning administrator sends a copy of the public hearing notice to the regional office of the Wisconsin Department of Natural Resources at least 10 calendar days before the date of the public hearing.²
- 7. General notice by type of application. If a proposed amendment would revise the text of this chapter, the zoning administrator provides for class 2 public notice, distribution list notice, and meeting agenda notice consistent with Division 2 of Article 4. If a property owner initiates a proposed amendment that would revise the zoning map, the zoning administrator provides for class 2 public notice, property owner notice, distribution list notice, and meeting agenda notice consistent with Division 2 of Article 4. If the Village initiates a proposed amendment that would revise the zoning map, the zoning administrator provides for class-2-public notice, distribution-list-notice, and meeting agenda-notice-consistent with Division 2 of Article 4.
- 8. **Staff report preparation and distribution.** The zoning administrator prepares a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and Village Board, the applicant, and any other interested person upon request.
- 9. Public hearing. Allowing for proper notice, the Plan Commission conducts a public hearing to review the application consistent with Division 3 of Article 4. Prior to the close of the public hearing, the applicant or the Plan Commission may request a continuance consistent with Division 3 of Article 4. If the public hearing is adjourned, the Plan Commission may direct the zoning administrator, the village engineer, and/or village attorney to conduct additional research and to prepare such documents it deems necessary, including a preliminary decision document.
- 10. **Recommendation.** After considering the public comments received at the public hearing and the staff report, the Plan Commission, no more than 40 calendar days after the public hearing, makes a recommendation to the Village Board based on the decision criteria contained in this division to (i) approve the amendment, (ii) approve the amendment with conditions, or (iii) deny the amendment.
- 11. **General notice**. Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
- 12. Village Board meeting. Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
- 13. **Decision**. The Village Board after considering the Plan Commission's recommendation makes a decision based on the decision criteria contained in this division to (i) approve the amendment, (ii) approve the amendment with conditions, or (iii) deny the amendment.
- 14. Required vote with downzoning. An amendment must be approved by at least two-thirds of the members-elect if the amendment would decrease the development density of the land to be less dense than was allowed under its previous usage or that would reduce the number of permitted uses of the

² Commentary: See s NR 116.20(2)(c) and ch. NR 117, Wis. Admin. Code

- land to fewer uses than were allowed under its previous usage. If a person requests or agrees to such downzoning, the ordinance may be enacted by a simple majority of the members-elect.³
- 15. Required vote with a protest by qualified property owners. Prior to January 1, 2019, an amendment to the zoning map may not become effective except upon a favorable vote of three-quarters of the Village Board members voting on the proposed change when (i) those owning 20 percent or more of the land area within the proposed map amendment file a written protest, (ii) those owning 20 percent or more of the land area within 100 feet of the proposed map amendment file a written protest, or (iii) those owning 20 percent or more of the land directly opposite of the proposed map amendment but within 100 feet of the street frontage file a written protest.4
- 16. Required vote with protest of airport. If a proposed amendment would make any change in an airport affected area, as defined under s. 62.23(6)(am)1.b., Wis. Stats., and the owner or operator of the airport bordered by the airport affected area files a protest against the proposed amendment, no ordinance which makes such change may be approved except by the affirmative vote of two-thirds of the members of the Village Board present and voting.⁵
- 17. **Preparation of decision document.** If the Village Board approves the proposed amendment, the zoning administrator prepares a final ordinance.
- 18. **Applicant notification**. Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
- 19. **Notification to Department of Natural Resources**. If the proposed amendment is approved and modifies the floodplain regulations in this chapter, the zoning administrator sends a copy of the ordinance to the regional office of the Wisconsin Department of Natural Resources via regular mail and/or email within 10 calendar days of the date of decision.
- 20. **Preparation of new zoning map.** If the proposed amendment is approved and modifies the zoning map, the zoning administrator shall cause a new zoning map to be prepared consistent with Article 6.

70.503 Effective date of adopted ordinance

- A. Generally. An adopted ordinance shall take effect as prescribed in state law.
- B. **Exceptions**. An amendment involving floodplain regulations shall not become effective until it is reviewed and approved by the regional office of the Wisconsin Department of Natural Resources. An amendment that modifies official floodplain zoning maps, floodway lines, or water surface profiles shall not become effective until it is reviewed and approved by the Federal Emergency Management Agency.

70.504 Basis of decision

- A. **Text amendment**. If a proposed amendment would revise the text of this chapter, the Plan Commission in making its recommendation and the Village Board in making its decision shall consider the following factors:
 - 1. whether the amendment is consistent with the Village's comprehensive plan;
 - 2. whether the amendment is consistent with other planning documents adopted by the Village Board;
 - 3. whether this chapter with the amendment is internally consistent;
 - 4. whether the amendment is the least restrictive approach to address issues of public health, safety, and welfare;
 - 5. the extent to which the text amendment will likely create new nonconforming uses and structures;
 - 6. if the proposed amendment relates to floodplain regulations, whether the chapter as amended complies with ss. 62.23 and 87.30, Wis. Stats., ch. NR 116, Wis. Admin. Code, and other state laws;
 - 7. if the proposed amendment relates to shoreland-wetland regulations, whether the chapter as amended complies with s. 62.231, Wis. Stats.; ch. NR 117, Wis. Admin. Code; and other state laws;

³ Commentary: See s, 66.10015(3), Wis. Stats

⁴ Commentary: See s. 62,23(7)(d)(2m)(a), Wis. Stats.

⁵ Commentary: See s. 62,23(7)(d)(2m)(b), Wls. Stats.

- 8. whether the proposed amendment is needed to comply with a new or revised state or federal law; and
- 9. any other factor not specifically or generally listed, but deemed appropriate by the Plan Commission or Village Board given the particular circumstances.
- B. **Zoning map amendment**. If a proposed amendment would revise the zoning map, the Plan Commission in making its recommendation and the Village Board in making its decision shall consider the following factors:
 - 1. whether the amendment is consistent with the Village's comprehensive plan, including future land use maps or similar maps;
 - 2. whether the amendment is consistent with other planning documents adopted by the Village Board;
 - 3. the extent to which the amendment will or will likely increase or decrease the number of nonconforming uses and structures; and
 - 4. any other factor not specifically or generally listed, but deemed appropriate by the Plan Commission or Village Board given the particular circumstances.
- C. Special review criteria for amendments to the shoreland-wetland overlay district boundary. To ensure this chapter remains consistent with the shoreland protection objectives of s. 144.26, Wis. Stats., the Village Board shall not rezone a wetland in a shoreland-wetland zoning district, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following wetland functions:
 - 1. storm and flood water storage capacity;
 - 2. maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
 - 3. filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - 4. shoreline protection against erosion;
 - 5. fish spawning, breeding, nursery, or feeding grounds;
 - 6. wildlife habitat: or
 - 7. areas of special recreational, scenic, or scientific interest, including scarce wetland types and habitat of endangered species.

70.505 Imposition of conditions

- A. **Generally**. The Plan Commission may recommend and the Village Board may impose one or more conditions of approval as may be necessary to grant approval.
- B. Mandatory conditions of approval relating to certain existing land uses. If a proposed amendment would revise the zoning map and is initiated by a property owner and the subject property hosts a land use that at the time of application is not permitted in the proposed zoning district, such use shall be removed as a condition of approval. If the subject property hosts a land use that at the time of application is classified as a conditional use in the proposed zoning district, the property owner shall as a condition of approval submit a conditional use application and obtain approval for that land use or, if conditional use approval is not granted, remove such use.

70.506 Application content

- A. Landowner-initiated map amendment. An application for a landowner-initiated zoning map amendment shall include the following:
 - 1. an application form as may be used by the Village,
 - 2. a project map prepared at an appropriate scale depicting the information listed in Appendix F, and
 - 3. other supporting information the applicant deems appropriate.
- B. Other amendments. For all other types of amendments, the application shall include the following:
 - 1. an application form as may be used by the Village, and

2. other supporting information the applicant deems appropriate.

70.507 Staff report content

The staff report should contain the following:

- 1. preliminary findings for the decision criteria listed in this division;
- 2. proposed revisions, if appropriate; and
- 3. other information deemed necessary.

70.508 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

70.509 to 70.510 Reserved

DIVISION 2 PLANNED DEVELOPMENT DISTRICT

70.511 Generally

A planned development district allows for more flexibility in the development of land while ensuring substantial compliance with the intent of this chapter and the Village's comprehensive plan.

70.512 Initiation

The owner of the subject property may submit an application for the establishment of a planned development district.

70.513 Where allowed

A planned development district may be established in those area listed in Exhibit 6-1.

70.514 Ownership

At the time of establishment, all land within a planned development district shall be under single ownership or control.

70.515 Minimum size

To qualify for consideration as a planned development district, the area shall include at least 5 acres.

70.516 Development agreement

If a planned development district is established pursuant to this division, the Village and developer may enter into a development agreement that specifies the duties and obligations of both parties with respect to the development project.

70.517 Allowable uses

Land uses allowed in the underlying zoning district(s) may be allowed in a planned development district as specified in a general development plan. When the underlying zoning district is a residential or commercial district, a combination of residential, recreational, institutional, and/or commercial uses may be allowed. When the underlying zoning is an industrial district, a combination of commercial and industrial uses may be allowed. A planned development district with a mix of residential and industrial uses is prohibited.

70.518 Review procedure

Establishment of a planned development district involves a two-step process. The review of a proposed project begins with a general development plan. If the general development plan is approved (i.e., an ordinance is adopted), a precise implementation plan for all or a part of the project is reviewed. If the precise implementation plan is approved, the project is officially approved. The general steps outlined below shall be used in the review of an application for the establishment of a planned development district.

Step One – General Development Plan

- 1. Pre-submittal meeting with zoning administrator. The applicant or the applicant's agent meets with the zoning administrator to review (i) applicable regulations and procedures; (ii) applicable sections of the Village's comprehensive plan an applicable neighborhood plans, if any; and (iii) the proposal. Upon request, the zoning administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary given the nature of the project and/or the extent to which the applicant understands the Village's zoning requirements.
- 2. **Pre-application conference with Plan Commission.** The applicant meets with the Plan Commission for an informal discussion relating to the proposed project. At that meeting, the applicant shall provide the Plan Commission with materials that describe the proposed project in sufficient detail for a preliminary, non-binding review.
- Submittal of application materials. The applicant submits a completed application and other required
 materials to the zoning administrator along with the application fee as may be established by the Village
 Board.
- 4. **Determination of completeness**. The zoning administrator reviews the submittal within 10 days of receiving the application and other required materials to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application-fee-The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record.
- 5. **Review date**. When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
- 6. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator provides for class 2 public notice, property owner notice, and meeting agenda notice.
- 7. **Staff report preparation and distribution**. The zoning administrator prepares a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and Village Board, the applicant, and any other interested person upon request.
- 8. **Public hearing.** Allowing for proper notice, the Plan Commission conducts a public hearing to review the application consistent with Division 3 of Article 4. Prior to the close of the public hearing, the applicant or the Plan Commission may request a continuance consistent with Division 3 of Article 4. If the public hearing is adjourned, the Plan Commission may direct the zoning administrator to conduct additional research related to the proposed district.
- 9. **Staff follow-up**. After the close of the public hearing, the Plan Commission may direct the zoning administrator, village engineer, and/or the village attorney to prepare a preliminary decision document.
- 10. Recommendation. No more than 60 calendar days after the public hearing, the Plan Commission makes a recommendation to the Village Board based on the decision criteria contained in this division to (i) approve the general development plan, subject to approval of a precise implementation plan; (ii) approve the general development plan with conditions, subject to approval of a precise implementation plan; or (iii) deny the general development plan.
- 11. **General notice**. Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
- 12. Village Board meeting. Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
- 13. **Decision**. The Village Board after considering the Plan Commission's recommendation makes a decision based on the decision criteria contained in this division to (i) approve the general development plan,

subject to approval of a precise implementation plan; (ii) approve the general development plan with conditions, subject to approval of a precise implementation plan; or (iii) deny the general development plan.

- 14. Preparation of decision document. If the general development plan is approved, the zoning administrator prepares a final ordinance.
- 15. **Applicant notification**. Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
- 16. Acceptance by property owner. If the general development plan is approved, the property owner must sign the decision document to acknowledge the terms of the approval and return the same to the zoning administrator within 2 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall become null and void without any further action by the Village. The decision document shall only become effective when all of the property owner signatures have been obtained and the original signature copy is returned to the zoning administrator.

Step Two - Precise implementation plan -----

- 1. Submittal of precise implementation plan. The applicant submits a precise implementation plan and other required materials to the zoning administrator along with the application fee as may be established by the Village Board. At the discretion of the applicant, such materials may be submitted concurrently with the review of the general development plan.
- 2. **Determination of completeness.** The zoning administrator reviews the submittal within 10 days of receiving the application and other required materials to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record.
- 3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
- 4. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator shall provide for a meeting agenda notice.
- 5. Staff report preparation and distribution. The zoning administrator prepares a staff report that evaluates whether the precise implementation plan is consistent with the approved general development plan and the suitability of the proposed plan given the additional information provided in the plan and supplemental materials. The zoning administrator provides a copy of it to each member of the Plan Commission and Village Board, the applicant, and any other interested person upon request.
- 6. **Meeting**. Allowing for proper notice, the Plan Commission reviews the precise implementation plan and the staff report.
- 7. **Determination of consistency**. The Plan Commission determines whether the precise implementation plan is generally consistent with the approved general development plan with respect to density/intensity and permissible land uses. If the Plan Commission determines that the precise implementation plan is not generally consistent, the Plan Commission shall render that decision in writing and take no further action on the precise implementation plan.
- 8. **Recommendation.** If the precise implementation plan is deemed to be consistent with the general development plan, the Plan Commission makes a recommendation to the Village Board based on the decision criteria contained in this division to (i) approve the precise implementation plan, (ii) approve the precise implementation plan with conditions, or (iii) deny the precise implementation plan.
- 9. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
- 10. **Village Board meeting.** Allowing for proper notice, the Village Board considers the application at a regular or special meeting.

- 11. **Decision**. The Village Board after considering the Plan Commission's recommendation makes a decision based on the decision criteria contained in this division to (i) approve the precise implementation plan, (ii) approve the precise implementation plan with conditions, or (iii) deny the precise implementation plan.
- 12. **Preparation of decision document**. Based on the action of the Village Board, the zoning administrator prepares a decision document consistent with this division.
- 13. **Applicant notification**. Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
- 14. Acceptance by property owner. If an approval includes one or more conditions of approval, the property owner must sign the decision document to acknowledge the imposition of such condition or conditions and return the same to the zoning administrator within 2 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall become null and void without any further action by the Village. The decision document shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.

70.519 Basis of decision

In the review of a general development plan and the precise implementation plan, the Plan Commission in making its recommendation and the Village Board in making its decision shall consider the following factors:

- 1. whether development in the proposed project is in keeping with the spirit and intent of this chapter;
- 2. whether development in the proposed project is consistent with the Village's comprehensive plan;
- 3. whether development in the proposed district is consistent with a neighborhood plan or other subarea plan that may have been prepared for land in or near the proposed district;
- 4. the effects of development in the proposed project on traffic safety and efficiency, both within and outside of the district;
- whether the proposed plan for development in the proposed project is properly planned and is properly coordinated with the existing and anticipated land uses on properties in the immediate and surrounding area;
- 6. the extent to which the natural features, open space, and/or farmland on the site are preserved;
- 7. whether development in the proposed project complies with provisions of this chapter and other land development regulations of the Village that may apply;
- 8. the effects of development in the proposed project on public services and facilities;
- 9. whether adequate water and sanitary sewer facilities can be provided;
- 10. the proposed means of maintaining any undeveloped areas of the proposed project for the purpose for which it was set aside;
- 11. effects of the proposed use on surrounding properties, including existing and anticipated uses;
- 12. effects of the proposed use on the normal and orderly development and improvement of the surrounding property for uses permitted in the zoning district and adjoining districts;
- 13. whether the plan for development is clearly superior to development that is permitted based on the design and development standards of the underlying zoning district; and
- 14. any other factor that relates to the purposes of this chapter set forth in s. 76.05 or as allowed by state law.

70.520 Imposition of conditions

A. Generally. The Plan Commission may recommend and the Village Board may impose conditions as may be necessary to grant approval. Such conditions may relate to any of the factors it considered in reaching its decision. In addition, the Plan Commission may recommend and the Village Board may require the provision of off-site exactions that may be necessary to approve the establishment of the planned development district project.

B. Effect on contracts with another party. The Village Board shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.

70.521 Application form and content

- A. General development plan. The application submittal for a general development plan shall include the following:
 - 1. an application form as may be used by the Village;
 - a general development plan prepared at an appropriate scale depicting the information listed in Appendix f;
 - 3. a preliminary draft of covenants if any are to be imposed; and
 - 4. a development schedule, if the project is to be constructed in phases, which includes the anticipated beginning date and ending date of each phase and a description of those project-related elements to be completed in each phase.
- B. Precise implementation plan. The application submittal for a precise implementation plan shall include the following:
 - 1. an application form as may be used by the Village;
 - a precise implementation plan prepared at an appropriate scale depicting the information listed in <u>Appendix F</u>;
 - 3. a final draft of covenants if any are to be imposed;
 - 4. homeowners association documents, if proposed or required;
 - 5. a development agreement, if proposed or required; and
 - 6. a development schedule, if the project is to be constructed in phases, which includes the anticipated beginning date and ending date of each phase and a description of those project-related elements to be completed in each phase.

70.522 Staff report content

The staff report should contain the following:

- 1. preliminary findings for the decision criteria listed in this division;
- 2. a preliminary list of recommended conditions of approval; and
- 3. other information deemed necessary.

70.523 Effect of approval

If the Village Board approves a planned development district, the approval shall run with the land and is binding on all subsequent property owners.

70.524 Effect of approved planned development district on land division standards

Development in a planned development district is subject to the Village's land division regulations to the extent applicable, except that the Plan Commission or Village Board may waive a development standard in the land division regulations as provided therein.

70.525 Review of actual development within an approved planned development district

If the Village Board approves a planned development district, proposed development in the district is reviewed consistent with the requirements of this article as may apply (e.g., building, site, and plan of operation).

⁶ Commentary: See s. 62.23(7)(gm), Wis. Stats. The Villge, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

70.526 Amendment of an approved planned development district

If the Village Board approves a planned development district, the Plan Commission and Village Board shall review all proposed changes to the project plan that was approved at the time of approval. If in the opinion of the Village Board, the proposed change constitutes a minor alteration, the Village Board may approve the requested change at a regular or special meeting of the Village Board. If the proposed change constitutes a major alteration, the review procedure in this division must be followed.

70.527 Expiration of an approval

If any portion of a planned development district that can be developed remains substantially undeveloped 3 years after final approval, the Village Board may rescind the approval, in whole or in part, following a public hearing. Upon petition and with cause, the Village Board may grant a one-time extension, not to exceed 4 years. In the event the Village Board rescinds an approval, the Village Board shall at that time reclassify undeveloped lands in the district based on the zoning regulations in effect at that time. Developed portions of the planned development district may either be allowed to retain the planned development district designation or reclassified based on the zoning regulations in effect at that time.

70.528 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

70.529 to 70.530

Reserved

DIVISION 3 CONDITIONAL USE

70.531 Generally

Although each zoning district is primarily intended for a predominant type of land use, there are a number of uses that may be appropriate under certain conditions. These are referred to as conditional uses. This division describes the requirements and procedures for reviewing a conditional use, including an amendment of an approved conditional use.

70.532 Applicability and limitations

- A. General applicability. Those land uses designated as a conditional use in the land-use matrix (Appendix A) must comply with the requirements in this division.
- B. Limitation due to nonconforming lot. In the event a parcel is classified as nonconforming (e.g., lot area, lot width), the Village may not process an application for a conditional use as set forth in s. 70.534, unless the Plan Commission makes a determination that the nature of the nonconformity does not affect the appropriateness of the parcel for the conditional use.
- C. Limitation due to a nonconforming use on the lot. In the event a parcel has a nonconforming use, the Village may not process an application for a conditional use as set forth in s. 70.534, unless the Plan Commission makes a determination that the nonconforming use and proposed conditional use are compatible.
- D. Limitation due to existing conditional use on the lot. In the event a parcel has an approved conditional use, the Village may not process an application for another conditional use as set forth in s. 70.534, unless the Plan Commission makes a determination that the existing and proposed conditional uses are compatible.

70.533 Initiation

The owner of the subject property may submit an application for the establishment of a conditional use.

70.534 Review procedure

A. Review and approval. The Plan Commission and Village Board shall review existing and proposed site conditions, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway

locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, the proposed operation, and other factors the Plan Commission and/or Village Board determines are appropriate when considering a conditional use application.

- B. Steps in the review process. The general steps outlined below shall be used in the review of a conditional use application.
 - 1. Pre-submittal meeting. Before submitting an application, the applicant or the applicant's agent must meet with the zoning administrator to review applicable regulations and procedures and the proposal. Upon request, the zoning administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary given the nature of the project and/or the extent to which the applicant understands the Village's zoning requirements.
 - Submittal of application materials. The applicant submits a completed application and other required
 materials to the zoning administrator along with the application fee as may be established by the Village
 Board.
 - 3. **Determination of completeness.** The zoning administrator reviews the submittal within 10 days of receiving the application and other required materials to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record.
 - 4. **Review date**. When the zoning administrator determines the application is complete, he or she schedules the review with the Village Board and the Plan Commission consistent with its adopted calendar,
 - 5. Special notice to Department of Natural Resources. If the application relates to the floodplain regulations in this chapter, the zoning administrator shall send a copy of the application and public hearing notice to the regional office of the Wisconsin Department of Natural Resources at least 10 calendar days before the date of the public hearing.
 - 6. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator shall provide for a class 2 public notice, property owner notice, and meeting agenda notice.
 - 7. **Staff report preparation and distribution**. The zoning administrator prepares a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and Village Board, the applicant, and any other interested person upon request.
 - 8. **Public hearing.** Allowing for proper notice, the Village Board and the Plan Commission conduct a joint public hearing to review the application consistent with Division 3 of Article 4. Prior to the close of the public hearing, the applicant, Village Board, or the Plan Commission may request a continuance consistent with Division 3 of Article 4. If the public hearing is adjourned, the Village Board and/or Plan Commission may direct the zoning administrator, the village engineer, and/or village attorney to conduct additional research. In addition, the Plan Commission may direct the zoning administrator to prepare such documents it deems necessary, including a preliminary decision document.
 - 9. **Staff follow-up**. After the close of the public hearing, the Plan Commission may direct the zoning administrator to prepare a preliminary decision document.
 - 10. Plan Commission recommendation. After the public hearing has been closed, the Plan Commission will make a recommendation to the Village Board for approval or denial. The recommendation shall state the terms of the approval or reasons for denial as set forth in a draft conditional use order. The burden of proof is on the applicant to prove they have met the standards of the chapter and those set forth by the Plan Commission/Village Board during the process. The Plan Commission shall render its recommendation within 35 days from the close of the public hearing unless an extension is consented to in writing by the applicant.
 - 11. **Village Board meeting**. Allowing for proper notice, the Village Board shall consider the application at a regular or special meeting.
 - 12. **Decision**. After considering all of the information submitted by the applicant, public comments received at the public hearing, the staff report, and the Plan Commission's recommendation, the Village Board makes a decision to (i) approve the conditional use, (ii) approve the conditional use with conditions, or (iii) deny the conditional use.

- 13. **Preparation of final decision document**. Based on the action of the Village Board, the zoning administrator prepares a final decision document consistent with this division.
- 14. **Applicant notification**. Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
- 15. **Notification to Department of Natural Resources**. If the application relates to the floodplain regulations in this chapter, the zoning administrator sends a copy of the decision document to the regional office of the Wisconsin Department of Natural Resources via regular mail and/or email within 10 calendar days of the date of decision.
- 16. Acceptance by property owner. If the application is approved, the property owner must sign the decision document to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall become null and void without any further action by the Village. The decision document shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.
- 17. Public record copy. A duplicate copy of the decision document is retained as a public record.
- 18. Recording of decision document. If the property owner returns the decision document within the required time period with the required signatures, the zoning administrator records the decision document against the subject property in the office of the Washington County register of deeds.
- 19. Administrative steps. If the conditional use is approved and the zoning administrator has created a map showing conditional uses, the zoning administrator adds the conditional use to that map.

70.535 Basis of decision

The Plan Commission in making its recommendation and the Village Board in making its final decision shall consider whether the proposal complies with (1) each of the special conditions of approval set forth in s. 70,536, (2) each of the performance standards set forth in s. 70,537, (3) each of the development standards prescribed for the requested conditional use, (4) all other applicable sections of the zoning code, and (5) all other applicable sections of the municipal code, including the Village's groundwater regulations. The recommendation of the Plan Commission and the decision by the Village Board must be based on substantial evidence.

70.536 Special conditions of approval

A. Generally. Based on substantial evidence, the Plan Commission may recommend and the Village Board may impose may impose one or more conditions of approval as may be necessary to grant approval. Such conditions and restrictions may relate to the establishment, location, construction, maintenance, operation of the use, off-site impacts, and any other aspect of the use that impacts the public health, safety, or general welfare. Examples of such conditions are listed below.

24.33074 RM .	NAMES AND PARTY AND ASSOCIATED ASSOCIATION OF THE WAY OF THE PARTY OF	CHECKET SECURITY SECU
Issu	O	Potential Condition
1.	Hours of operation	Limit hours of operation to hours to be more compatible with surrounding uses.
2.	Buffering	Require more of a buffer than what is otherwise required by this chapter. Buffering may include landscaping, walls or fences, berms, and other features to physically separate adjoining uses.
3.	Maximum floor area	Establish a maximum floor area that may be less than what is otherwise allowed.
4.	Maximum number of patrons	Limit the size of the use by establishing maximum patron loads, often by seats and/or tables
5.	Uses within buildings	Limit commercial uses to the first floor of a multistory building
6.	Number and/or location of entrances	Design the site and building so that entrances are located in areas away from adjoining properties.
7: -	Outdoor activity	Restrict locations and/or times of outdoor activity.
8.	Outdoor storage	Establish a maximum area for outdoor storage that may be less than what is otherwise allowed.
9.	Take-out food service	Prohibit drive-up service windows and/or walk-up service windows in certain areas of the property (e.g., near a residential use). If these are allowed, limitations could be set.
10.	Delivery services	Prohibit deliver services that entail frequent trips or establish upper limits on the activity.
11.	Signage	Prohibit signage in areas of the property that may cause an impact on surrounding areas.

- 8. **Limitation on imposing conditions.** A condition of approval shall not lessen a development standard or other requirement contained in this chapter.
- C. Effect on contracts with another party. The review authority shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.
- D. Special condition for business as property owner. As a condition of approval of a conditional use, the property owner if it is a business entity, such as a limited liability company or a corporation, shall for the life of the conditional use continuously maintain a registered office in the state of Wisconsin as evidenced by registration with the Wisconsin Department of Financial Institutions.

70.537 Conditional use performance standards

- A. Generally. This section describes performance standards for the regulation of uses and to establish an objective and equitable basis for control and to ensure that the community is adequately protected from potential hazardous and nuisance-like effects. These performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or zoning district. In addition, these performance standards are intended to comply with other applicable local, state and federal codes and standards. All structures, lands, air, and water shall hereafter comply with the performance standards set forth in this section.
- B. Odors. No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor. The Plan Commission and/or Village Board reserves the right to request an odor control plan from the applicant to identify potential odors and implement recommendations from the plan.
- C. Fire and explosive hazards.

⁷ Commentary: See s. 62.23(7) (gm), Wis. Stats, The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

- 1. All uses involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and fire suppression equipment and devices as may be required by the Fire Prevention Code.
- 2. All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have noncombustible exterior walls and an automatic fire extinguishing system.
- 3. The storage of fuels and other materials that produce flammable or explosive vapors shall be permitted only after review and approval by the village fire department and in accord with their requirements to minimize fire and explosive hazards.

D. Glare, heat and external lighting.

- 1. No operation or activity shall produce any intense lighting, glare or heat with the source directly visible beyond the boundary of the property line. Operations producing light, glare, or heat shall be conducted within an enclosed building.
- 2. External lighting shall be shielded so that light rays do not adversely affect adjacent uses.

E. Water quality.

- 1. No activity shall locate, store, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that might runoff, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness, or be harmful to human, animal, plant, or aquatic life.
- No activity shall withdraw water or discharge any liquid or solid materials so as to exceed or
 contribute toward exceeding the minimum standards and those other standards and the application
 of those standards set forth in Wis. Adm. Code NR 102 or in other applicable Chapters which regulate
 water quality.
- F. **Noise**. No operation or activity shall transmit any noise beyond the boundaries of the property so that it becomes a nuisance.
- G. Vibration. No operation or activity shall transmit any physical vibration that is above the vibration perception threshold of an individual at or beyond the property line of the source. Vibration perception threshold means the minimum ground- or structure-borne vibrational motion necessary to cause a reasonable person to be aware of the vibration by such direct means as, but not limited to, sensation by touch or visual observation of moving objects. Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities are exempt from this standard.
- H. Traffic impact. The Plan Commission and/or the Village Board reserves the right to require a traffic impact study in order to identify impacts to adjacent properties and roadways and to identify improvements or actions required to minimize or eliminate impacts. No use shall be approved unless the applicant implements the conclusions and recommendations of the study. The traffic study shall be prepared by a registered professional engineer in accordance with the following standards:
 - 1. Manual on Transportation Studies (Institute of Transportation Engineers (ITE))
 - 2. Traffic Impact Analysis Guidelines (Wisconsin Department of Transportation)
 - 3. Manual on Uniform Traffic Control Devices (Federal Highway Administration)
 - 4. Trip Generation Manual (Institute of Transportation Engineers)
 - 5. Other local, county or state standards

70.538 Standard terms for an approved conditional use

The terms and conditions listed below are automatically incorporated into a conditional use order authorizing a use, unless otherwise stated in the conditional use order.

- 1. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In case of a question as to the classification of use, the question shall be submitted to the Plan Commission for determination.
- 2. No use is hereby authorized unless the use is conducted in a lawful, orderly, and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order or rule of either the municipal governing body, the Washington County of, the State of Wisconsin, the United States of America or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by Village ordinance or other law.
- 3. The approved conditional use shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Plan Commission as being in compliance with all pertinent ordinances.
- 4. All buildings and grounds shall be maintained in a neat, attractive and orderly way.
- 5. The property shall comply with all rules and regulations of the Village of Richfield and the local fire department, including submission to routine inspections by the village staff and fire department staff.
- 6. Prior to the execution of the conditional use permit, the applicant must obtain any and all approvals that must be obtained before the use may be established or the commencement of any land-disturbing activity related to the approved conditional use.
- 7. Should the permitted conditional use be abandoned in any manner, or discontinued in use for 12 months, or continued other than in strict conformity with the conditions of the original approval, or should the petitioner be delinquent in payment of any monies due and owing to the Village, or should a change in the eheraeter of the surrounding area or the use itself-cause it to be no longer compatible with the surrounding area or for similar cause based upon consideration of public health, safety or welfare, the conditional use may be terminated by action of the Plan Commission, pursuant to the enforcement provisions of this conditional use order, and all applicable ordinances.
- 8. Any change, addition, modification, alteration and/or amendment of any aspect of this conditional use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises, structures, lands or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.
- 9. Unless this conditional use order expressly states otherwise, plans that are specifically required by this conditional use order may be amended upon the prior approval of the Plan Commission if the Plan Commission finds the plan amendment to be minor and consistent with the conditional use permit. Any change in any plan that the plan commission feels, in its sole discretion, to be substantial shall require a new permit, and all procedures in place at the time must be followed.
- 10. As a condition precedent to the issuance of the conditional use permit, the owner of the subject property shall approve the issuance of this conditional use order upon the terms and conditions described herein in writing, and the petitioner is required to accept the terms and conditions of the same in its entirety in writing.
- 11. Petitioner shall, on demand, reimburse the Village for all costs and expenses of any type that the Village incurs in connection with this application, including the cost of professional services incurred by the Village (including engineering, legal, planning and other consulting fees) for the review and preparation of the necessary documents or attendance at meetings or other related professional services for this application, as well as for any actions the Village is required to take to enforce the conditions in this conditional approval due to a violation of these conditions.
- 12. Any unpaid bills owed to the Village by the subject property owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Village; shall be placed upon the tax roll for the subject property if not paid within 30 days of billing by the Village, pursuant to s. 66.0627, Wis. Stats. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Village, including possible cause for termination of this approval.

- 13. The petitioner is obligated to file with the village clerk a current mailing address and current phone number at which the petitioner can be reached, which must be continually updated by the petitioner if such contact information should change, for the duration of the conditional use. If the petitioner fails to maintain such current contact information, the petitioner thereby automatically waives notice of any proceedings that may be commenced under this conditional approval, including proceedings to terminate this conditional use.
- 14. All conditions of approval imposed by duly adopted motion of the Village Board in its consideration of the petitioner's application, as noted in the minutes of the Village Board meeting at which approval was granted, are specifically incorporated herein by reference.
- 15. Should any paragraph or phrase of this conditional use order be determined by a court to be unlawful, illegal or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the conditional use order and the remainder shall continue in full force and effect.
- 16. If any aspect of this conditional use order or any aspect of any plan contemplated and approved under this conditional use is in conflict with any other aspect of the conditional use or any aspect of any plan of the conditional use, the more restrictive provision shall be controlling as determined by the Plan Commission.
- 17. If the property owner/operator is a business entity, such as a limited liability company or a corporation, such entity shall for the life of the conditional use continuously maintain a registered office in the state of Wisconsin as evidenced by registration with the Wisconsin Department of Financial Institutions.
- 18. The property owner shall not change the size and/or shape of the subject property by any means without the approval of the Village Board. If the Village Board determines that a proposed change is substantial with regard to the overall size of the parcel and/or configuration, such change shall require issuance of a new conditional use approval pursuant to the requirements in effect at the time of application.
- 19. This approval is given under the Village's zoning code and is not to be, in any way, interpreted to abrogate any private rights other property owners may have pursuant to deed restrictions or restrictive covenants.
- 20. If this conditional use terminates for any reason, the property owner is obligated to remove any improvements specifically related to the conditional use and which cannot be utilized for an approved use (i.e., a use permitted by right or a different conditional use as approved).
- 21. In the event the subject property is found to be in violation and then brought into compliance, the Village Board reserves the right to impose periodic reviews to ensure continued compliance.

70.539 Application form and content

The application submittal shall include an application form as may be used by the Village and a project map prepared at an appropriate scale depicting the information listed in Appendix ξ .

70.540 Staff report content

The staff report should contain preliminary findings for the decision criteria listed in this division and other information deemed appropriate.

70.541 Content of decision document

- A. **Approval**, If the application for a conditional use is approved, the decision document should include the following:
 - 1. a statement that the conditional use is approved;
 - 2. a description of the conditional use;
 - a description of where the conditional use will occur on the property;
 - 4. reasons for the decision based on the criteria listed in this division;
 - 5. conditions of approval that must be satisfied prior to the establishment of the conditional use, if any;
 - 6. conditions of approval that must be complied with during the life of the conditional use, if any;

- 7. a statement indicating that the property owner must sign the decision document and return it to the zoning administrator to acknowledge acceptance of the same;
- 8. a statement that the applicant may appeal the decision to a court of competent jurisdiction;
- a statement that an aggrieved person, other than the applicant, may appeal the decision to a court
 of competent jurisdiction and that any work done by the applicant as authorized by the approval is
 done at the applicant's risk;
- a statement indicating the nature of the approval (i.e., personal to the property owner or runs with the land);
- 11. other information the Village Board or zoning administrator deems appropriate;
- 12. the signature of the zoning administrator on behalf of the Village Board; and
- 13. the date of the decision.
- B. **Denial**. If the application for a conditional use is denied, the decision document should include the following:
 - 1. a statement that the conditional use is denied,
 - 2. a description of the project, including acreage and proposed use characteristics,
 - 3. reasons for the decision based on the criteria listed in this division,
 - a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
 - 5. a statement that the decision may be appealed as provided for in this division,
 - 6. other information the Village Board or zoning administrator deems appropriate,
 - 7. the signature of the zoning administrator on behalf of the Village Board, and
 - 8. the date of the decision.

70.542 Term for an approval

A conditional use order authorizing a conditional use shall generally have 5-year terms unless otherwise specified in the conditional use order. The order shall describe an administrative renewal process to allow for streamlined renewal of the conditional use order with a provision that allows the Plan Commission and/or the Village Board to remove the conditional use order from automatic renewal if there are concerns with compliance with the conditional use order or concerns raised by the public about the applicant's operations. If the Plan Commission or the Village Board pulls the conditional use order from automatic approval the conditional use order shall remain in effect while the Plan Commission provides due process to the applicant in reviewing the conditional use order and its potential renewal.

70.543 Effect of approval

- A. Generally. Unless otherwise specified in the conditional use order, approvals run with the land.
- B. Temporary uses. If a use is listed as a temporary use in Appendix A and is approved by the Village Board as a conditional use, the use may be re-established with the written approval of the zoning administrator if he or she determines that the use to be re-established is substantially the same as what was originally approved and that the approved use did not create any potentially adverse impacts on the public health, safety, or welfare.

70.544 Expiration of an approval

A. Non-establishment of use. If the zoning administrator determines that substantial work as authorized by a conditional use approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 13 of this article. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 6 months, provided (1) the permit holder requests the extension prior to the expiration of the approval, (2) the permit holder clearly demonstrates that circumstances beyond his or her control

- prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.
- B. Cessation of use. If the zoning administrator determines that a conditional use has ceased to operate for any reason, whether intentional or otherwise, for more than 12 continuous months, he or she shall initiate the process to terminate the approval pursuant to Division 13 of this article.

70.545 Amendment of an approved conditional use

Following approval of a conditional use, the Plan Commission shall review all proposed changes to the approval. If in the opinion of the Plan Commission, the proposed change constitutes a minor alteration, the Plan Commission may approve the requested change in writing at a regular or special meeting of the Plan Commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

70.546 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

70.547 Effect of comprehensive plan

Pursuant to Wis. Stats. 66.1001(2m)(b), a conditional use approval that may be issued by the Village Board does not need to be consistent with the Village's adopted comprehensive plan.

70.548 to 70.550

Reserved

DIVISION 4 WIRELESS TELECOMMUNICATION FACILITY

70.551 Review procedure

- A. New telecommunication tower and Class 1 collocation. The general steps outlined below shall be used to review an application for a new telecommunication tower and a Class 1 collocation as designated in the land-use matrix (Appendix A).
 - 1. **Submittal of application materials.** The applicant submits a completed application to the zoning administrator along with the application fee as may be established by the Village Board.
 - 2. **Determination of completeness.** The zoning administrator reviews the application and determines whether the application is complete. If the application includes all of the required information, the application shall be found to be complete. The zoning administrator notifies the applicant in writing within 10 days of receiving the application if it is found not to be complete, and such notice shall specify in detail the required information that was incomplete. Applicants are allowed to resubmit their application as often as necessary until it is complete.
 - 3. **Review date**. When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
 - 4. **General notice**. Consistent with Division 2 of Article 4, the zoning administrator provides for a class 2 public notice, property owner notice, and meeting agenda notice.
 - Staff report preparation and distribution. The zoning administrator prepares a written staff report and provides a copy of it to each member of the Plan Commission, the applicant, and any other interested person upon request.
 - 6. **Public hearing**. Allowing for proper notice, the Plan Commission conducts a public hearing to review the application consistent with Division 2 of Article 4. Prior to the close of the public hearing, the applicant or the Plan Commission may request a continuance consistent with Division 3 of Article 4.
 - 7. **Staff follow-up**. If the Plan Commission does not render a decision immediately following the public hearing, the Plan Commission may direct the zoning administrator to prepare a preliminary decision document.

- 8. **Decision**. After considering all of the information submitted by the applicant, public comments received at the public hearing, and the staff report, the Plan Commission, no more than 40 calendar days after the public hearing, makes a decision to (i) approve the application, (ii) approve the application with conditions, or (iii) deny the application.
- 9. **Preparation of final decision document**. Based on the action of the Plan Commission, the zoning administrator prepares a final decision document.
- 10. **Applicant notification**. Within a reasonable time following the Plan Commission's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
- 11. Acceptance by property owner. If the application is approved, the property owner must sign the decision document to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the Plan Commission may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision is null and void without any further action by the Village. The decision document shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.
- 12. Public record copy. A duplicate copy of the decision document is retained as a public record.
- 13. Recording of decision document. If the property owner returns the decision document within the required time period with the required signatures, the zoning administrator records the decision document against the subject property in the Washington County register of deeds office.

In the event an applicant believes the Village has exceeded its authority as set forth in s. 66.0404, Wis. Stats., and other such laws as may apply which may include 47 USCA s. 1455, the applicant shall notify the zoning administrator in writing and the reviewing authority reserves the right to reconsider the matter, to ensure that applicable laws are followed.

- B. Class 2 collocation. The general steps outlined below shall be used to review an application for a Class 2 collocation which is allowed in all zoning districts.
 - Submittal of application materials. The applicant submits a completed application to the zoning administrator along with the application fee as may be established by the Village Board.
 - 2. Determination of completeness. The zoning administrator reviews the application and determines whether the application is complete. If the application includes all of the required information, the application shall be found to be complete. The zoning administrator must notify the applicant in writing within 5 days of receiving the application if it is found not to be complete, and such notice shall specify in detail the required information that was incomplete. Applicants are allowed to resubmit their application as often as necessary until it is complete.
 - 3. **Decision**. The zoning administrator makes a decision on the application within 45 days of the date the application is deemed complete, unless the time is extended by the applicant. The decision shall be stated in writing. If approval is not granted, the reasons therefor must be stated.
 - 4. Public record copy. A duplicate copy of the decision document is retained as a public record.

In the event an applicant believes the Village has exceeded its authority as set forth in s. 66.0404, Wis, Stats., and other such laws as may apply which may include 47 USCA s. 1455, the applicant shall notify the zoning administrator in writing and the reviewing authority reserves the right to reconsider the matter, to ensure that applicable laws are followed.

70.552 Application form

- A. New telecommunication tower and Class 1 collocation. An application form for a new telecommunication tower or a Class 1 collocation must include all of the following information as appropriate:
 - 1. The name and business address of, and the contact individual for, the applicant.
 - 2. The location of the proposed tower or affected tower.
 - 3. The location of the proposed mobile service facility.

- 4. If an application is to substantially modify an existing telecommunication tower, a construction plan which describes the proposed modifications to the tower, and equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
- 5. If an application is to construct a new telecommunication tower, a construction plan which describes the proposed tower and equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new tower.
- 6. If an application is to construct a new telecommunication tower, an explanation as to why the applicant chose the proposed location, and why the applicant did not choose collocation, including a sworn statement from the responsible party attesting that collocation within the applicant's service area would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome.
- B. Class 2 collocation. An application form for a Class 2 collocation must include the following information:
 - 1. The name and business address of, and the contact individual for, the applicant.
 - 2. The location of the proposed tower or affected tower.
 - 3. The location of the proposed mobile service facility.

70.553 Imposition of conditions

- A. **Generally**. The reviewing authority may impose one or more conditions of approval as may be necessary to grant approval. Such conditions may relate to any aspect of the use that impacts the public health, safety, or general welfare, subject to subsection (B) below.
- B. Limitations. The reviewing authority may not impose any of the following as a condition of approval:
 - 1. A requirement relating to environmental testing, sampling, or monitoring.
 - 2. A requirement relating to radio frequency emissions.
 - 3. A requirement to pay a reoccurring fee.
 - 4. A requirement that the structure or mobile service facility owner must provide space on or near the structure for the use of or by the Village at less than the market rate, or to provide the Village other services via the structure or facilities at less than the market rate.
 - 5. Limit the duration of the approval.
 - 6. A requirement that the applicant must indemnify or insure the Village in connection with the political subdivision's exercise of its authority to approve the application.
 - 7. A requirement that the applicant must give the Village the right to place at or collocate with the applicant's support structure any mobile service facilities provided or operated by, whether in whole or in part, the Village or an entity in which the Village has a governance, competitive, economic, financial, or other interest.

70.554 Expiration of an approval

- A. Non-establishment of use. If the zoning administrator determines that substantial work as authorized by the approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 13 of this article. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 6 months, provided (1) the permit holder requests the extension prior to the expiration of the approval, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.
- B. Cessation of use. If the zoning administrator determines that a conditional use has ceased to operate for any reason, whether intentional or otherwise, for more than 12 continuous months, he or she shall initiate the process to terminate the approval pursuant to Division 13 of this article.

70.555 Amendment of an approval

Following approval, the Plan Commission shall review all proposed changes to the approval. If in the opinion of the Plan Commission, the proposed change constitutes a minor alteration, the Plan Commission may approve the requested change in writing at a regular or special meeting of the Plan Commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

70.556 Fees

- A. **Professional service reimbursement**. Costs incurred by the Village in obtaining legal, planning, engineering, and other technical and professional advice in connection with an application shall be charged to the applicant as set forth in s. 70,409.
- B. Limitation on fees. The total of all fees, excluding professional service reimbursement, associated with the review of an application shall not exceed the limits established by s. 66.0404(4)(d), Wis. Stats.

70.557 to 70.560

Reserved

DIVISION 5 SITE PLAN AND PLAN OF OPERATION

70.561 Generally

- A. **Site plans**. The way in which a land use occupies a lot has a direct effect on the overall functionality of the site, the extent to which the land use can be expanded on the site in the future, effects of the land use on nearby properties, and impacts on existing and anticipated public and private infrastructure. This division describes the requirements and procedures for reviewing a site plan.
- B. **Plan of operations**. The way in which many land uses operate has a direct effect on the nature of the use and potential effects on nearby properties, including existing and anticipated land uses. This division describes the requirements and procedures for reviewing a plan of operation.

70.562 Applicability

Those land uses designated as requiring site plan review (SP) or plan of operation review (PO) in the land-use matrix (Appendix A) must comply with the requirements in this division.

70.563 Initiation

The owner of the subject property may submit an application for a site plan and plan of operation.

70.564 Review procedure

The general steps outlined below shall be used in the review of a site plan and plan of operation application.

- Submittal of application materials. The applicant submits a completed application and other required
 materials to the zoning administrator along with the application fee as may be established by the Village
 Board.
- 2. **Determination of completeness**. The zoning administrator reviews the submittal within 10 days of receiving the application and other required materials to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record.
- 3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
- 4. **Staff report preparation and distribution.** The zoning administrator prepares a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and the

- applicant prior to the meeting at which the matter will be considered. The zoning administrator will also provide a copy to interested people upon request.
- 5. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
- 6. **Meeting**. Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
- 7. **Decision**. The Plan Commission makes a decision to (i) approve the site plan/plan of operation, (ii) approve the site plan/plan of operation with conditions, or (iii) deny the site plan/plan of operation. The Plan Commission may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 calendar days after the initial meeting unless the applicant agrees to an extension of a specified duration.
- 8. **Preparation of decision document**. Based on the action of the Plan Commission, the zoning administrator prepares a decision document consistent with this division.
- 9. **Applicant notification**. Within a reasonable time following the Plan Commission's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
- 10. Acceptance by property owner. If the application is approved, the property owner and the operator, if different, must sign the decision document to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner or operator, if different, may submit a petition to the village clerk requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall become null and void without any further action by the Village. The decision document shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.
- 11. Public record copy. A duplicate copy of the decision document is retained as a public record.

70.565 Basis of decision

- A. Site plan. The review authority shall consider the following factors in making their decision:
 - effects of the project on traffic safety and efficiency and pedestrian circulation, both on-site and offsite;
 - 2. effects of the project on the natural environment;
 - 3. effects of the project on surrounding properties;
 - 4. compliance with the general site design principles enumerated in s. 70.
 - 5. compliance with the design principles for parking lots enumerated in Article 13;
 - 6. compliance with other applicable requirements contained in this chapter; and
 - 7. any other factor that relates to the purposes of this chapter set forth in s. 78.95 or as allowed by state law.
- B. Plan of operation. The review authority shall consider the following factors in making their decision:
 - the nature of the land use with regard to the number of employees, nature and extent of truck shipments to and from the site, hours of operation, use of hazardous substances, and other operational characteristics;
 - 2. the nature and extent of anticipated positive and negative effects on properties in the area;
 - 3. actions the applicant will undertake to mitigate the negative effects, if any, of the proposed land use; and
 - 4. any other factor that relates to the purposes of this chapter set forth in s. 70.05 or as allowed by state law.

70.566 Imposition of conditions

- A. **Site plan.** In approving a site plan, the Plan Commission may impose one or more conditions deemed necessary to further the intent and purposes of this chapter. Such conditions, for example, may relate to landscaping and screening, revisions to the site design, and outdoor lighting.
- B. Plan of operation. In approving a plan of operation, the Plan Commission may impose one or more conditions deemed necessary to further the intent and purposes of this chapter. Such conditions, for example, may relate to operational characteristic of the land use, including hours of operation and processes or activities related to the land use.
- C. **Effect on contracts with another party.** The Plan Commission shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.⁸

70.567 Application form and content

The application submittal shall include an application form as may be used by the Village.

70.568 Staff report content

The staff report should contain the following:

- 1. a description of the proposed project;
- 2. preliminary findings for the decision criteria listed in this division;
- 3. a recommendation to approve the application, approve the application with conditions, or deny the application;
- 4. a preliminary list of conditions whether the staff recommendation is for approval or denial; and
- 5. other information deemed necessary.

70.569 Content of decision document

- A. Approval. If the application for a site plan or plan of operation is approved, the decision document should include the following:
 - 1. a statement that the site plan/plan of operation is approved:
 - 2. a description of the land use along with operational characteristics;
 - 3. reasons for the decision based on the criteria listed in this division;
 - 4. conditions of approval, if any;
 - 5. a statement indicating that the property owner and operator, if different, must sign the decision document and return it to the zoning administrator to acknowledge acceptance of the same;
 - 6. a statement that the applicant may appeal the decision to a court of competent jurisdiction;
 - 7. a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
 - 8. other information the reviewing authority or zoning administrator deems appropriate;
 - 9. the signature of the zoning administrator on behalf of the reviewing authority; and
 - 10. the date of the decision.
- B. **Denial.** If the application for a site plan or plan of operation is denied, the decision document should include the following:
 - 1. a statement that the site plan/plan of operation is denied,
 - a description of the land use,

⁸ Commentary: See s. 62.23(7)(gm), Wis. Stats, The Village, for example, could not require an applicant to feminate an existing contract with another party that is engaged in a lawful use of the property.

- 3. reasons for the decision based on the criteria listed in this division,
- 4. a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
- 5. a statement that the decision may be appealed as provided for in this division,
- 6. other information the reviewing authority or zoning administrator deems appropriate,
- 7. the signature of the zoning administrator on behalf of the reviewing authority, and
- 8. the date of the decision.

70.570 Effect of approval

The approval of a site plan and a plan of operation plan shall run with the land and is binding on all subsequent property owners.

70.571 Expiration of an approval

An approval of a site plan/plan of operation shall automatically expire 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

70.572 Amendment of an approval

Following approval of a site plan or plan of operation, the Plan Commission shall review all proposed changes to the approval. If in the opinion of the Plan Commission, the proposed change constitutes a minor alteration, the Plan Commission may approve the requested change in writing at a regular or special meeting of the Plan Commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

70.573 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

70,574 to 70,575

Reserved

DIVISION 6 ARCHITECTURAL REVIEW

70.576 Generally

Architectural review is intended to ensure that buildings fit in to the context in which they occur.

70.577 Applicability

Those land uses designated as requiring architectural review in the land-use matrix (Appendix A) must comply with the requirements in this division. The exterior of an existing building designated as requiring architectural review may be resided or re-roofed with the same or similar type of materials.

70.578 Initiation

The owner of the subject property may submit an application for architectural review.

70.579 Review procedure

The general steps outlined below shall be used in the review of an architectural plan application.

- Submittal of application materials. The applicant submits a completed application and other required
 materials to the zoning administrator along with the application fee as may be established by the Village
 Board.
- 2. **Determination of completeness.** The zoning administrator reviews the submittal within 10 days of receiving the application and other required materials to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record.
- 3. **Review date**. When the zoning administrator determines the application is complete, he or she schedules the review with the Architectural Review Committee consistent with its adopted calendar.
- 4. **Recommendation**. The Architectural Review Committee makes a recommendation to the Plan Commission to (i) approve the architectural plan, (ii) approve the architectural plan with conditions, or (iii) deny the architectural plan.
- 5. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
- 6. **Meeting.** Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
- 7. **Decision**. The Plan Commission makes a decision to (i) approve the architectural plan, (ii) approve the architectural plan with conditions, or (iii) deny the architectural plan. The Plan Commission may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 calendar days after the public meeting unless the applicant agrees to an extension of a specified duration.
- 8. **Preparation of decision document**. Based on the action of the Plan Commission, the zoning administrator prepares a decision document consistent with this division.
- 9. **Applicant notification.** Within a reasonable time following the Plan Commission's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
- 10. Public record copy. A duplicate copy of the decision document is retained as a public record.

70.580 Basis of decision

The review authority shall determine whether the building complies with all applicable provisions of this chapter.

70.581 Imposition of conditions

- A. **Generally.** In approving an architectural plan, the review authority may impose one or more conditions deemed necessary to further the intent and purposes of this chapter.
- B. Effect on contracts with another party. The review authority shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.9

70.582 Application form and content

The application submittal shall include an application form as may be used by the Village and a set of architectural plans prepared at an appropriate scale.

70.583 Content of decision document

- A. Approval. If the architectural plan is approved, the decision document should include the following:
 - 1. a statement that the architectural plan is approved;
 - 2. a description of the project;

Oommentary: See s. 62,23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

- 3. reasons for the decision based on the criteria listed in this division;
- 4. conditions of approval, if any;
- 5. if one or more conditions of approval are imposed, a statement indicating that the property owner must sign the decision document and return it to the zoning administrator to acknowledge acceptance of the same;
- 6. a statement that the applicant may appeal the decision to a court of competent jurisdiction;
- 7. a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
- 8. other information the Plan Commission or administrator deems appropriate;
- 9. the signature of the zoning administrator on behalf of the Plan Commission; and
- 10. the date of the decision.
- B. **Denial**. If the architectural plan is denied, the decision document should include the following:
 - 1. a statement that the architectural plan is denied,
 - 2. a description of the project,
 - 3. reasons for the decision based on the criteria listed in this division,
 - 4. a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
 - 5. a statement that the decision may be appealed as provided for in this division,
 - 6. other information the Plan Commission or zoning administrator deems appropriate,
 - 7. the signature of the zoning administrator on behalf of the Plan Commission, and
 - 8. the date of the decision.

70.584 Effect of approval

An approval of an architectural plan shall run with the land and is binding on all subsequent property owners.

70.585 Expiration of an approval

An approval of an architectural plan shall automatically expire 12 months after the date of issuance unless substantial work has commenced and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

70.586 Amendment of an approval

Following approval of an architectural plan, the Plan Commission shall review all proposed changes to the approval. If in the opinion of the Plan Commission, the proposed change constitutes a minor alteration, the Plan Commission may approve the requested change in writing at a regular or special meeting of the Plan Commission without following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

70.587 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

70.583 to 70.590

Reserved

DIVISION 7 SPECIAL EXCEPTION

70.591 Generally

Upon written petition, the Plan Commission may, on a case-by-case basis, grant a special exception for those development standards specifically noted as special exceptions in this chapter.

70.592 Initiation

The owner of the subject property may submit an application for a special exception.

70.593 Review procedure

The general steps outlined below shall be used in the review of a special exception application.

- Submittal of application materials. The applicant submits a completed application and other required
 materials to the zoning administrator along with the application fee as may be established by the Village
 Board.
- 2. **Determination of completeness.** The zoning administrator reviews the submittal within 10 days of receiving the application and other required materials to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record,
- 3. **Review date**. When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
- 4. Staff-report preparation and distribution. The zoning administrator prepares a written staff-report as described in this division and provides a copy of it to each member of the Plan Commission and the applicant prior to the meeting at which the matter will be considered. The zoning administrator will also provide a copy to interested people upon request.
- 5. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
- 6. **Meeting**. Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
- 7. **Decision**. After considering all of the information submitted by the applicant and the staff report, the Plan Commission makes a decision based on the decision criteria contained in this division to (i) approve the special exception, (ii) approve the special exception with conditions, or (iii) deny the special exception.
- 8. **Preparation of final decision document**. Based on the action of the Plan Commission, the zoning administrator prepares a final decision document consistent with this division.
- Applicant notification. Within a reasonable time following the Plan Commission's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
- 10. Acceptance by property owner. If the application is approved, the property owner must sign the decision document to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall become null and void without any further action by the Village. The decision document shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.
- 11. Public record copy. A duplicate copy of the decision document is retained as a public record.

70.594 Basis of decision

The review authority shall consider the following factors:

- 1. the size of the property in comparison to other properties in the area;
- the extent to which the issuance of the special exception would be in keeping with the overall intent of this chapter;
- 3. whether there are any unique circumstances and the nature of those circumstances that warrant the issuance of the special exception;
- 4. the nature and extent of anticipated impacts to the natural environment that could potentially occur if the special exception was granted;
- 5. the nature and extent of anticipated positive and negative effects on properties in the area;
- 6. actions the applicant will undertake to mitigate the negative effects, if any, of the proposed special exception;
- a factor specifically listed under a section of this chapter authorizing the issuance of a special exception;
- 8. any other factor that relates to the purposes of this chapter set forth in s. 70.05 or as allowed by state law.

70.595 Imposition of conditions

- A. **Generally**. In approving a special exception, the review authority may impose one or more conditions deemed necessary to further the intent and purposes of this chapter.
- B. Effect on contracts with another party. The review authority shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.¹⁰

70.596 Limitations on issuing a special exception

A special exception shall only be approved in those instances where issuance is specifically authorized in this chapter.

70.597 Application form and content

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in Appendix F.

70.598 Staff report content

The staff report should contain the following:

- 1. a description of the requested special exception;
- 2. preliminary findings for the decision criteria listed in this division;
- 3. a recommendation to approve the application, approve the application with conditions, or deny the application;
- 4. a preliminary list of conditions whether the staff recommendation is for approval or denial; and
- 5. other information deemed necessary.

70.599 Content of decision document

- A. Approval. If the application for a special exception is approved, the decision document should include the following:
 - 1. a statement that the special exception is approved;
 - 2. a description of the special exception;
 - 3. reasons for the decision based on the criteria listed in this division;

¹⁰ Commentary: See s. 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

- 4. conditions of approval, if any;
- 5. a statement indicating that the property owner must sign the decision document and return it to the zoning administrator to acknowledge acceptance of the same;
- 6. a statement that the applicant may appeal the decision to a court of competent jurisdiction;
- 7. a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
- 8. other information the review authority or zoning administrator deems appropriate;
- 9. the signature of the zoning administrator on behalf of the reviewing authority; and
- 10. the date of the decision.
- B. **Denial**. If the application for a special exception is denied, the decision document should include the following:
 - 1. a statement that the special exception is denied,
 - 2. a description of the special exception,
 - 3. reasons for the decision based on the criteria listed in this division,
 - 4. a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
 - 5. a statement that the decision may be appealed as provided for in this division,
 - 6. other information the review authority or zoning administrator deems appropriate,
 - 7. the signature of the zoning administrator on behalf of the reviewing authority, and
 - 8. the date of the decision.

70.600 Effect of approval

If a special exception is approved, such approval shall run with the land and is binding on all subsequent property owners.

70.601 Expiration of an approval

An approval for a special exception shall automatically expire 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

70.602 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

70.603 to 70.605

Reserved

DIVISION 8 ZONING PERMIT

70.606 Generally

A zoning permit is administrative in nature and is intended to ensure that certain types of land uses are in compliance with this chapter and any precedent approvals (e.g., conditional use approval).

70.607 Applicability

Those land uses designated as requiring a zoning permit in the land-use matrix (Appendix A) must comply with the requirements in this division when a new use is being established and when there is a change in occupancy of an existing non-residential building.

70.608 Initiation

The owner of the subject property may submit an application for a zoning permit.

70.609 Review procedure

The general steps outlined below shall be used in the review of an application for a zoning permit.

- 1. **Submittal of application materials**. The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
- 2. **Determination of completeness.** The zoning administrator reviews the submittal within 10 days of receiving the application and other required materials to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record.
- 3. **Decision**. When the zoning administrator determines the application is complete, he or she makes a decision to (i) approve the zoning permit, (ii) approve the zoning permit with conditions, or (iii) deny the zoning permit
- 4. Applicant notification. Within a reasonable time following his or her decision to approve or deny the application, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
- 5. Public record copy. A duplicate copy of the decision document is retained as a public record.

70.610 Basis of decision

In determining whether to issue a zoning permit or deny the permit, the zoning administrator shall determine whether the proposed use is consistent with (1) any prior approvals, such as a conditional use approval, (2) this chapter, and (3) other provisions of the municipal code.

70.611 Expiration of an approval

- A. Project involving construction. For a project involving any construction, a zoning permit shall automatically expire 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3i) the project complies with this chapter in effect at the time the extension is granted.
- B. Change in use. For a change in use, the zoning permit shall automatically expire 6 months after the date of issuance if the applicant does not move into the vacant space.

70.612 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an administrative appeal with the Zoning Board of Appeals within 30 calendar days of the final decision.

70.613 to 70.615

Reserved

DIVISION 9 FLOODPLAIN PERMIT

70.616 Generally

A floodplain permit is administrative in nature and is intended to ensure that land uses located in the floodplain overlay district comply with the requirements in Article §.

70.617 Applicability

A floodplain permit must be obtained before any of the following is initiated in the floodplain overlay district:

- 1. new development, broadly construed;
- 2. repair, modification, or addition to an existing structure; or
- 3. change in the use of a building or structure.

70.618 Initiation

The owner of the subject property may submit an application for a floodplain permit.

70.619 Review procedure

The general steps outlined below shall be used in the review of an application for a floodplain permit.

- 1. **Submittal of application materials**. The applicant submits a completed application and other required materials to the zoning administrator along with the application fee as may be established by the Village Board.
- 2. Determination of completeness. The zoning administrator reviews the submittal within 10 days of receiving the application and other required materials to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. If the application is deemed incomplete or if additional information is requested, the zoning administrator will take no further steps to process the application until the deficiencies are remedied or the information is provided. The incomplete application is retained as a public record.
- 3. **Decision**. When the zoning administrator determines the application is complete, he or she makes a decision based on the decision criteria contained in this division to (i) approve the floodplain permit, (ii) approve the floodplain permit with conditions, or (iii) deny the floodplain permit.
- 4. **Applicant notification**. Within a reasonable time following his or her decision to approve or deny the application, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
- 5. Public record copy. A duplicate copy of the decision document is retained as a public record.

70.620 Basis of decision

In determining whether to issue a floodplain permit or deny the permit, the zoning administrator shall determine whether the proposed use is consistent with the standards in Article 8.

70.621 Application form and content

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1'' = 20' or other appropriate scale depicting the information listed in Appendix F. The application at a minimum shall include the following:

- 1. name and address of the property owner;
- 2. legal description of the subject property;
- 3. a description of the proposed project:

- the elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
- 5. data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Division 4 or 6 [3.0 or 4.0] of Article 8 are met; and
- 6. data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to s. 70. [11,12,142 [2,1]]. This may include any of the information noted in s. 70. [11,12,63, [3,3]1)]].

In addition to the information listed in Appendix F, the following shall be depicted on the site map:

- 1. elevation of existing and proposed roads located in the floodplain,
- 2. elevation of existing and proposed wellheads located in the floodplain, and
- 3. elevation of existing and proposed buildings located in the floodplain.

70.622 Expiration of an approval

- A. Project involving construction. For a project involving any construction, a floodplain permit shall automatically expire 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.
- B. Change in use. For a change in use, the floodplain permit shall automatically expire 6 months after the date of issuance if the applicant does not move into the vacant space.

70.623 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an administrative appeal with the Zoning Board of Appeals within 30 calendar days of the final decision.

70.624 to 70.625

Reserved

DIVISION 10 BERM PERMIT

70.626 Generally

A berm permit is administrative in nature and is intended to ensure the proposed project complies with all applicable sections of this code.

70.627 Applicability

A berm permit must be obtained before any work is done to construct or modify an existing berm.

70.628 Initiation

The owner of the subject property may submit an application for a berm permit.

70.629 Review procedure

The general steps outlined below shall be used in the review of an application for a berm permit.

Submittal of application materials. The applicant submits a completed application and other required
materials to the zoning administrator along with the application fee as may be established by the Village
Board.

- 2. Determination of completeness. The zoning administrator reviews the submittal within 10 days of receiving the application and other required materials to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. If the application is deemed incomplete or if additional information is requested, the zoning administrator will take no further steps to process the application until the deficiencies are remedied or the information is provided. The incomplete application is retained as a public record.
- 3. **Decision**. When the zoning administrator determines the application is complete, he or she makes a decision based on the decision criteria contained in this division to (i) approve the berm permit, (ii) approve the berm permit with conditions, or (iii) deny the berm permit.
- 4. Applicant notification. Within a reasonable time following his or her decision to approve or deny the application, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
- 5. **Public record copy**. A duplicate copy of the decision document is retained as a public record.

70.630 Basis of decision

In determining whether to issue a berm permit or deny the permit, the zoning administrator shall determine whether the proposed berm complies with all applicable sections of this code.

70.631 Application form and content

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1" = 20' or other appropriate scale depicting the information listed in Appendix F.

70.632 Expiration of an approval

A berm permit shall automatically expire 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

70.633 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an administrative appeal with the Zoning Board of Appeals within 30 calendar days of the final decision.

70.634 to 70.635 Reserved

DIVISION 11 TEMPORARY USE - 30 DAYS OR LESS

70.__ to 70.__ Reserved

DIVISION 12
TEMPORARY USE - MORE THAN 30 DAYS BUT LESS THAN 90 DAYS



DIVISION 13 TERMINATION OF APPROVAL

70.675 Generally

There are certain situations when the approval for a land use may be terminated. This division describes the procedures for terminating an approved use.

70.676 Initiation

- A. Voluntary termination of a conditional use. The property owner is authorized to submit an application to terminate a conditional use approval for his or her property.
- B. Involuntary termination of conditional use approval due to cessation. The zoning administrator is authorized to submit an application to terminate a conditional use approval when he or she determines the land use authorized by such approval has ceased to operate for more than 12 months.
- C. Involuntary termination of a conditional use approval due to violation. The zoning administrator is authorized to submit an application to terminate a conditional use approval when he or she determines that the property owner has violated one or more conditions of approval and satisfactory action has not been taken to correct the violation.
- D. **Involuntary termination of a specified land use due to cessation**. The zoning administrator is authorized to submit an application to terminate an approved land use when he or she determines that such use is no longer in use for the time period specified for such use.
- E. Involuntary termination of a nonconforming use. The zoning administrator is authorized to submit an application to terminate a nonconforming use when he or she determines that such use is having a significant harmful effect on the public health, safety, and welfare or the nonconforming use has ceased to operate for the period of time required by this chapter to retain designation as a nonconforming use.

70.677 Review procedure for voluntary termination

The general steps outlined below shall be used in the review of an application to voluntarily terminate an approval of a land use authorized under this chapter.

- Submittal of application materials. The applicant submits a completed application and other required
 materials to the zoning administrator along with the application fee as may be established by the Village
 Board.
- 2. **Determination of completeness.** The zoning administrator reviews the submittal within 10 days of receiving the application and other required materials to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record.
- 3. **General notice**. Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
- 4. **Meeting**. Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
- 5. **Decision**. The Village Board makes a decision to (i) approve the termination, (ii) approve the termination with conditions, or (iii) deny the termination. The Village Board may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 calendar days after the date of the initial meeting unless the applicant agrees to an extension of a specified duration.
- 6. **Preparation of decision document**. Based on the action of the Village Board, the zoning administrator prepares a decision document consistent with this division.

- 7. Applicant notification. Within a reasonable time following the Village Board'sdecision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
- 8. Public record copy. A duplicate copy of the decision document is retained as a public record.
- 9. Administrative steps. If the application is approved, the zoning administrator updates any village records to indicate that the use as specified in the application has been terminated.

70.678 Review procedure for involuntary termination

The general steps outlined below shall be used in the review of an application to involuntarily terminate an approval of a land use authorized under this chapter.

- 1. **Submittal of application materials.** The zoning administrator shall complete an application and other required materials.
- 2. Determination of completeness. The zoning administrator reviews the submittal within 10 days of receiving the application and other required materials to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record.
- 3. **Review date.** When the zoning administrator determines the application is complete, he or she schedules the review with the Village Board and the Plan Commission consistent with its adopted calendar.
- 4. Special notice to property owner. The zoning administrator sends a written notice to the property owner by regular and certified mail at least 30 calendar days prior to the date of the public hearing. Such notice should state (i) the reasons why the zoning administrator has submitted an application to terminate the specified use; (ii) the date and time of the public hearing; (iii) contact information for the zoning administrator, including telephone number; and (iv) other information deemed appropriate by the zoning administrator. If the action is intended to terminate a conditional use for a violation, the notice shall state the alleged violation along with supporting evidence. If the action is intended to terminate an inactive land use, the notice shall state the time period when the land use was not in use along with any supporting evidence.
- 5. **General public notice**. Consistent with Division 2 of Article 4, the zoning administrator provides for a class 2 public notice, property owner notice, and meeting agenda notice.
- 6. **Public hearing**. Allowing for proper notice, the Village Board and the Plan Commission conduct a joint public hearing consistent with Division 3 of Article 4. Prior to the close of the public hearing, the applicant, the Village Board, or the Plan Commission may request a continuance consistent with Division 3 of Article 4. If the public hearing is adjourned, the Village Board or the Plan Commission may direct the zoning administrator, the Village engineer, and/or village attorney to conduct additional research. In addition, the Plan Commission may direct the zoning administrator to prepare such documents it deems necessary, including a preliminary decision document.
- 7. **Recommendation.** After considering all of the information submitted by the applicant, public comments received at the public hearing, the Plan Commission, no more than 40 calendar days after the public hearing, makes a recommendation to the Village Board based on the decision criteria contained in this division to (i) approve the termination, (ii) approve the termination with conditions, or (iii) deny the termination.
- 8. **General notice**. Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
- Village Board meeting. Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
- 10. **Decision**. After considering all of the information submitted by the applicant, public comments received at the public hearing, and the Plan Commission's recommendation, the Village Board makes a decision based on the decision criteria contained in this division to (i) approve the termination, (ii) approve the termination with conditions, or (iii) deny the termination.
- 11. **Preparation of decision document**. Based on the action of the Village Board, the zoning administrator prepares a final decision document consistent with this division.

- 12. **Applicant notification**. Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to the property owner by regular mail and/or email.
- 13. Public record copy. A duplicate copy of the decision document is retained as a public record.
- 14. Administrative steps. If the application is approved, the zoning administrator updates any village records to indicate that the use as specified in the application has been terminated.

70.679 Basis of decision

The Plan Commission in making its recommendation and the Village Board in making its decision shall consider the following factors:

- 1. the nature of those buildings or other structures, if any, on the subject property that relate to the use and the extent to which they are or are not otherwise permitted in the district in which the subject property is located;
- 2. effects of the existing use on surrounding properties, including detriment to the full and complete use of such properties and potential for concerns related to possible nuisances;
- 3. effects of the existing use on the normal and orderly development and improvement of the surrounding property for those uses permitted in the zoning district in which they are located; and
- 4. any other factor that relates to the purposes of this chapter as set forth in s. 70.05 or as allowed by state law.

70.680 Application form and content

The application submittal shall include an application form as may be used by the Village. The application form shall request the following information:

- 1. the subject property location;
- 2. a description of the original approval, including conditions of approval, if any;
- verification that the property owner is voluntarily seeking termination of a conditional use approval or
 evidence supporting the assertion that the use may be involuntarily terminated consistent with this
 division;
- 4. a description of those buildings or other structures, if any, on the subject property that relate to the use and the extent to which they are or are not otherwise permitted in the district in which the subject property is located; and
- 5. other information deemed necessary.

70.681 Content of decision document

- A. **Approval**. If the application to terminate an approval is approved, the decision document should include the following:
 - 1. a statement that the specified use is terminated;
 - 2. a description of the land use being terminated;
 - 3. reasons for the decision based on the criteria listed in this division:
 - 4. requirements for the removal of any building or other structure, if any, on the subject property that are related to the terminated use and that are not otherwise permitted in the zoning district in which the subject property is located;
 - 5. a statement that the decision may be appealed as provided for in this division;
 - 6. other information the Village Board or zoning administrator deems appropriate;
 - 7. the signature of the zoning administrator on behalf of the Village Board; and
 - 8. the date of the decision.
- B. **Denial**. If the application to terminate an approval is denied, the decision document should include the following:

- 1. a statement that the specified use continues to be an approved use,
- 2. a description of the land use,
- 3. reasons for the decision based on the criteria listed in this division,
- 4. a statement that the decision may be appealed as provided for in this division,
- 5. other information the Village Board or zoning administrator deems appropriate,
- 6. the signature of the zoning administrator on behalf of the Village Board, and
- 7. the date of the decision.

70.682 Compliance with requirements of zoning district

If the Village Board terminates an approval under this division, the property owner shall bring the subject property into conformity with the permitted use regulations of the zoning district in which the property is located. The Village Board shall establish a timeframe it determines appropriate to bring the property into compliance. In making such determination, the Village Board should consider the type of actions the property owner will need to take to bring the property into compliance and weather conditions. In no event, shall the compliance period be less than 30 calendar days or more than 9 months.

70.683 Appeal

The property owner or other person having a development interest in the terminated use may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

70.684 to 70.686 Reserved

DIVISION 14 REGISTRATION OF A NONCONFORMING USE

70.687 Generally

There may be now or in the future certain uses of land that are not in compliance with this chapter, but which were legally established. These uses are referred to as "nonconforming uses," and consistent with the provisions of Article 1.4 are allowed to continue to operate within certain parameters. For this reason, it is necessary to document those uses that are considered nonconforming. Registration of a use as a nonconforming use provides documentary evidence establishing (1) when the use was first established; (2) that the use was established consistent with the rules and regulations in effect at the time, if any; (3) that the use has operated continuously, without cessation of more than 12 continuous months; and (4) the nature of the use. Failure to register a nonconforming use does not result in prohibition of the use, but in any future situation where the owner asserts the use is a nonconforming use, the property owner shall have the burden of so proving.

70.688 Initiation

Any of the following may submit an application to determine whether a use should be registered as a nonconforming use:

- 1. a person having a financial interest in the property or in the use occurring on the property;
- 2. the zoning administrator;
- 3. the Plan Commission, or any member thereof; and
- 4. the Village Board, or any member thereof.

70.689 Review procedure

The general steps outlined below shall be used to determine if an existing use should be registered as a nonconforming use.

- Submittal of application materials. The applicant submits a completed application and other required
 materials to the zoning administrator along with the application fee as may be established by the Village
 Board.
- 2. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
- 3. Special notice to property owner. If the application process is not initiated by the property owner, the zoning administrator sends a written notice to the property owner by regular and certified mail at least 60 calendar days prior to the date of the Plan Commission meeting. Such notice shall invite the property owner to submit evidence relating to the pending determination. In addition, the notice should state (i) the reasons why the application has been submitted; (ii) the date and time of the meeting; (iii) contact information for the zoning administrator; and (iv) other information deemed appropriate by the zoning administrator.
- 4. **Meeting**. Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
- .5. Recommendation. The Plan Commission determines whether it has sufficient evidence to make a recommendation, and if so whether the use should or should not be classified as a nonconforming use. The Plan Commission may render its recommendation at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 calendar days after the date of the initial meeting unless the applicant agrees to an extension of a specified duration.
- 6. **General notice**. Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
- 7. **Village Board meeting**. Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
- 8. **Decision**. After considering the Plan Commission's recommendation, the Village Board determines whether it has sufficient evidence to make a final decision, and if so whether the use should or should not be classified as a nonconforming use.
- 9. **Preparation of decision document**. Based on the action of the Village Board, the zoning administrator within 15 calendar days of such decision prepares a decision document consistent with this division.
- Applicant notification. Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to the property owner by regular mail and/or email.
- 11. Public record copy. A duplicate copy of the decision document is retained as a public record.
- 12. **Inclusion in registry.** If the use is determined to be a nonconforming use, the zoning administrator shall include the nonconforming use in the registry authorized in Article 8.

70.690 Basis of decision

In making its decision, the review authority shall determine whether there is sufficient evidence to show that (1) the use in question was legally established; (2) such use does not now comply with one or more of the requirements of this chapter; and (3) such use has continued from the date, or approximate date, of establishment to the current date without an interruption of more than 12 continuous months.

70.691 Application form and content

The application submittal shall include an application form as may be used by the Village and scaled drawing of the property and the location of the land use on the property. At a minimum, the application shall request the following information:

- 1. the date, or approximate date, the use was first established or believed to be first established;
- 2. evidence showing that the use at the time of establishment was legally established;
- 3. the date, or approximate date, when the use became nonconforming;
- 4. the section of the zoning regulation causing the use to be nonconforming;
- 5. evidence showing that the use has continued from the date, or approximate date, of establishment to the current date without an interruption of more than 12 continuous months; and

the nature of the use and location on the property.

Sources of such information may be derived from any of the following:

- 1. written document (e.g., business license, meeting minutes, reports, planning documents, or a permit or other authorization) maintained by a local, state, or federal governmental body;
- 2. a newspaper article;
- 3. a dated photograph;
- 4. an aerial photograph;
- 5. a sworn affidavit supplied by the applicant or any other person; and
- 6. any other authoritative source as approved by the zoning administrator.

70.692 Content of decision document

- A. **Approval**. If the application for registering a nonconforming use is approved, the decision document should include the following:
 - 1. a statement that the application is approved,
 - 2. a description of the use,
 - 3. reasons for the decision based on the criteria listed in this division,
 - 4. a statement that the applicant may appeal the decision as provided for in this division,
 - 5. other information the Plan Commission or the zoning administrator deems appropriate,
 - 6. the signature of the zoning administrator on behalf of the Plan Commission, and
 - 7. the date of the decision.
- B. Denial. If the application for registering a nonconforming use is denied, the decision document should include the following:
 - 1. a statement that the application is denied,
 - 2. a description of the use,
 - 3. reasons for the decision based on the criteria listed in this division,
 - 4. a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
 - 5. a statement that the applicant may appeal the decision as provided for in this division,
 - 6. other information the Plan Commission or the zoning administrator deems appropriate,
 - 7. the signature of the zoning administrator on behalf of the Plan Commission, and
 - 8. the date of the decision.

70.693 Effect of decision

If the Plan Commission determines that a land use meets the criteria for a nonconforming use, such decision constitutes documentary evidence establishing the legitimacy and nature of the use as a nonconforming use.

70.694 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision

70.695 to 70.697

Reserved

DIVISION 15 CONVERSION OF A NONCONFORMING USE

70.698 Generally

An existing nonconforming use (e.g., a tavern in a residential district) may be converted to another nonconforming use provided the new use is less nonconforming (e.g., from a tavern to a restaurant).

70.699 Initiation

The owner of the subject property may submit an application for a conversion of a nonconforming use, but only when the nonconforming use has been registered as a nonconforming use pursuant to Division $\frac{1}{2}$ of this article.

70.700 Review procedure

The general steps outlined below shall be used in the review of an application for a conversion of a nonconforming use.

- 1. Pre-submittal meeting. Before submitting an application, the applicant or the applicant's agent shall meet with the zoning administrator to review (i) applicable regulations and procedures, (ii) applicable sections of the Village's comprehensive plan, and (iii) the proposal. Upon request, the zoning administrator may waive the requirement to hold a pre-submittal meeting when he or she determines such meeting is not necessary given the nature of the project and/or the extent to which the applicant understands the Village's zoning requirements.
- Submittal of application materials. The applicant submits a completed application and other required
 materials to the zoning administrator along with the application fee as may be established by the Village
 Board.
- 3. Determination of completeness. The zoning administrator reviews the submittal within 10 days of receiving the application and other required materials to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record.
- 4. **Review date**. When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
- 5. **Staff report preparation and distribution.** The zoning administrator prepares a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and Village Board, the applicant, and any other interested person upon request.
- 6. **General notice**. Consistent with Division 2 of Article 4, the zoning administrator provides for a class 2 public notice, property owner notice, and meeting agenda notice.
- 7. **Public hearing**. Allowing for proper notice, the Village Board and Plan Commission conduct a joint public hearing consistent with Division 3 of Article 4. Prior to the close of the public hearing, the applicant, Village Board, or Plan Commission may request a continuance consistent with Division 3 of Article 4. If the public hearing is adjourned, the Village Board or Plan Commission may direct the zoning administrator, the village engineer, and/or village attorney to conduct additional research and to prepare such documents it deems necessary, including a preliminary decision document.
- 8. **Recommendation.** After considering all of the information submitted by the applicant, public comments received at the public hearing, the Plan Commission, no more than 40 calendar days after the public hearing, makes a recommendation to the Village Board based on the decision criteria contained in this division to (i) approve the conversion, (ii) approve the conversion with conditions, or (iii) deny the conversion.
- 9. **General notice**. Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
- 10. **Village Board meeting**. Allowing for proper notice, the Village Board considers the application at a regular or special meeting.

- 11. **Decision**. After considering all of the information submitted by the applicant, public comments received at the public hearing, and the Plan Commission's recommendation, the Village Board makes a decision based on the decision criteria contained in this division to (i) approve the conversion, (ii) approve the conversion with conditions, or (iii) deny the conversion.
- 12. **Preparation of decision document**. Based on the action of the Village Board, the zoning administrator prepares a final decision document consistent with this division, and a conversion order if approved.
- 13. **Applicant notification.** If the application is denied, the zoning administrator, within a reasonable time following the Village Board 's decision, sends the decision document to the applicant by regular mail and/or email.
- 14. Acceptance by property owner. If the application is approved, the property owner must sign the conversion order to acknowledge the terms of the approval and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall become null and void without any further action by the Village. The conversion order shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.
- 15. Public record copy. A duplicate copy of the decision document is retained as a public record.
- 16. **Recordation**. If the property owner signs the approved conversion order, the zoning administrator records the conversion order in the office of the Washington County register of deeds.

70.701 Basis of decision

The Plan Commission and Village Board shall compare the known and anticipated impacts of the existing nenconforming use on properties in the area and those of the proposed nonconforming use. The Plan Commission shall not recommend and the Village Board shall not approve a conversion when the new nonconforming use would be more of a nonconformity than the existing nonconforming use.

70.702 Imposition of conditions

- A. **Generally.** In approving a conversion, the Village Board may impose one or more conditions deemed necessary to further the intent and purposes of this chapter. Such conditions, for example, may relate to landscaping and screening, outdoor lighting, and hours of operation.
- B. **Effect on contracts with another party.** The Village Board shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property. 11

70.703 Application form and content

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1'' = 20' or other appropriate scale depicting the information listed in Appendix F.

70.704 Staff report content

The staff report should contain the following:

- 1. a description of the requested conversion;
- 2. preliminary findings for the decision criteria listed in this division;
- 3. a recommendation to approve the application, approve the application with conditions, or deny the application;
- 4. a preliminary list of conditions whether the staff recommendation is for approval or denial; and
- 5. other information deemed necessary.

¹¹ Commentary; See s. 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

70.705 Content of decision document

- A. Approval. If the application for a conversion is approved, the decision document should include the following:
 - 1. a statement that the conversion is approved;
 - 2. a description of the new nonconforming use;
 - 3. a statement indicating that the property owner must sign the conversion order and return it to the zoning administrator;
 - 4. a statement that the applicant may appeal the decision to a court of competent jurisdiction;
 - 5. a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
 - 6. other information the review authority or zoning administrator deems appropriate;
 - 7. the signature of the zoning administrator on behalf of the review authority;
 - 8. the date of the decision; and
 - 9. the copy of the conversion order described in s. 70,706.
- B. Denial. If the application for a conversion is denied, the decision document should include the following:
 - 1. a statement that the application is denied,
 - 2. a description of the proposed conversion,
 - 3. reasons for the decision based on the criteria listed in this division,
 - a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
 - 5. a statement that the decision may be appealed as provided for in this division,
 - 6. other information the Village Board or zoning administrator deems appropriate,
 - 7. the signature of the zoning administrator on behalf of the Village Board, and
 - 8. the date of the decision.

70.706 Content of conversion order

If the conversion is approved, a conversion order shall be prepared and adopted that contains (1) a description of the subject property's location (e.g., address, parcel number, reference to a parcel in a certified survey map or subdivision plat); (2) a description of the existing and of the new nonconforming use; (3) conditions of approval, if any; and (4) other provisions deemed necessary given the nature of the approval.

70.707 Effect of approval

If the Village Board approves the conversion, such approval shall run with the land and is binding on all subsequent property owners.

70.708 Expiration of an approval

If the zoning administrator determines that substantial work as authorized by a conversion approval did not commence within 12 months of the date of approval or if substantial work did commence within 12 months of the date of approval but has not continued in good faith to completion, he or she shall initiate the process to terminate the approval pursuant to Division 13 of this article. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 6 months.

70.709 Amendment of an approval

Following approval of a conversion, the Plan Commission shall review all proposed changes to the approval. If in the opinion of the Plan Commission, the proposed change constitutes a minor alteration, the Plan Commission may approve the requested change in writing at a regular or special meeting of the Plan Commission without

following the review procedure in this division. If the proposed change constitutes a major alteration, the review procedure in effect at the time of submittal shall be followed.

70.710 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

70.711 to 70.712 Reserved

DIVISION 16 EXPANSION OF A NONCONFORMING BUILDING

70.713 Generally

A nonconforming building (i.e., a building built too close to a lot line) with a conforming use may be expanded in compliance with all requirements of the zoning code and with the procedures and requirements of this division.

70.714 Initiation

The owner of the subject property may submit an application to expand a nonconforming building with a conforming use.

70.715 Review procedure

The general steps outlined below shall be used in the review of an application to expand a nonconforming building.

- Pre-submittal meeting. Before submitting an application, the applicant or the applicant's agent may
 meet with the zoning administrator to review applicable regulations and procedures and the
 proposal.
- Submittal of application materials. The applicant submits a completed application and other
 required materials to the zoning administrator along with the application fee as may be established
 by the Village Board.
- 3. Determination of completeness. The zoning administrator reviews the submittal within 10 days of receiving the application and other required materials to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record.
- 4. **Review date**. When the zoning administrator determines the application is complete, he or she schedules the review with the Plan Commission consistent with its adopted calendar.
- 5. **Staff report preparation and distribution**. The zoning administrator prepares a written staff report as described in this division and provides a copy of it to each member of the Plan Commission and the applicant prior to the meeting at which the matter will be considered. The zoning administrator will also provide a copy to interested people upon request.
- 6. **General notice**. Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
- 7. **Meeting**. Allowing for proper notice, the Plan Commission considers the application at a regular or special meeting.
- 8. **Recommendation**. The Plan Commission makes a recommendation to (i) approve the expansion, (ii) approve the expansion with conditions, or (iii) deny the expansion. The Plan Commission may render its recommendation at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 calendar days after the public meeting unless the applicant agrees to an extension of a specified duration.

- 9. **General notice**. Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Village Board.
- 10. Village Board meeting. Allowing for proper notice, the Village Board considers the application at a regular or special meeting.
- 11. **Decision**. The Village Board makes a decision to (i) approve the expansion, (ii) approve the expansion with conditions, or (iii) deny the expansion.
- 12. **Preparation of decision document**. Based on the action of the Village Board, the zoning administrator prepares a decision document consistent with this division.
- 13. **Applicant notification**. Within a reasonable time following the Village Board's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
- 14. Acceptance by property owner. If the application is approved, the property owner must sign the decision document to acknowledge the imposition of such condition or conditions and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall become null and void without any further action by the Village. The decision document shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.
- 15. **Recording of decision document**. The decision document is recorded in the Washington County register of deeds office when approval is granted.
- 16. Public record copy. A duplicate copy of the decision document is retained as a public record.

70.716 Basis of decision

The review authority shall consider the following factors:

- the degree of the existing nonconformity (i.e., 1 foot into the setback or 1 foot from the property boundary line),
- 2. the size and configuration of the lot,
- 3. whether the lot conforms to the dimensional standards of the zoning district in which it is located,
- 4. the size and location of the existing nonconforming building,
- 5. the size and location of other existing structures and those structures reasonably anticipated on the lot,
- 6. the impact, if any, that the expansion may have on adjoining properties,
- 7. whether the proposed expansion would violate the intent of this chapter, and
- 8. any other factor that relates to the purposes of this chapter set forth in s. 7005 or as allowed by state law.

70.717 Imposition of conditions

- A. Generally. In approving an expansion of a nonconforming building, the Village Board may impose one or more conditions of approval deemed necessary to further the intent and purposes of this chapter. Such conditions, for example, may relate to landscaping, screening, and the maximum size of the building(s), or impose limitations on additional buildings otherwise allowed on the subject property under the applicable zoning district regulations.
- B. **Effect on contracts with another party.** The Village Board shall not condition or withhold approval based upon the property owner entering into a contract or discontinuing, modifying, extending, or renewing any contract, with a third party under which the third party is engaging in a lawful use of the property.¹²

¹² Commentary: See s. 62.23(7)(gm), Wis. Stats. The Village, for example, could not require an applicant to terminate an existing contract with another party that is engaged in a lawful use of the property.

70.718 Application form and content

The application submittal shall include an application form as may be used by the Village and a site plan prepared at a scale of 1'' = 20' or other appropriate scale depicting the information listed in Appendix F.

70.719 Content of decision document

- A. **Approval**. If the application for an expansion of a nonconforming building is approved, the decision document should include the following:
 - 1. a statement that the building expansion is approved;
 - 2. a description of the building project;
 - 3. reasons for the decision based on the criteria listed in this division;
 - 4. conditions of approval, if any;
 - 5. a statement that the applicant may appeal the decision to a court of competent jurisdiction;
 - 6. a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
 - 7. other information the Village Board or zoning administrator deems appropriate;
 - 8. the signature of the zoning administrator on behalf of the Village Board; and
 - 9. the date of the decision.
- B. **Denial.** If the application for expansion of a nonconforming building is denied, the decision document should include the following:
 - 1. a statement that the building expansion is denied,
 - 2. reasons for the decision based on the criteria listed in this division,
 - 3. a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration,
 - 4. a statement that the applicant may appeal the decision to a court of competent jurisdiction,
 - 5. other information the Village Board or zoning administrator deems appropriate,
 - 6. the signature of the zoning administrator on behalf of the Village Board, and
 - 7. the date of the decision.

70.720 Effect of decision

If the review authority approves the expansion of a nonconforming building, the approval runs with the land and is binding on all subsequent property owners.

70.721 Expiration of an approval

An approval to expand a nonconforming building shall automatically expire 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

70.722 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

70.723 to 70.725

Reserved

DIVISION 17 CODE INTERPRETATION

70.726 Generally

From time to time, there may be instances where a person may have a question concerning a provision of this chapter or the application of a provision of this chapter. To ensure this chapter is consistently interpreted over time, a mechanism is needed to issue written interpretations. This division describes the procedures and requirements to issue such interpretations.

70.727 Initiation

Any person, including the zoning administrator, may submit a question for interpretation.

70.728 Limitations on interpretations

The responsibility for issuing an interpretation shall not be construed as overriding the responsibilities specifically given to any commission, board, or official named in any other part of this chapter.

70.729 Review procedure

- A. Zoning administrator review. The general steps outlined below shall be used to render an interpretation.
 - 1. **Submittal of question**. The individual requesting the interpretation shall submit the question in writing to the zoning administrator and the application fee as may be established by the Village Board.
 - 2. **Decision**. In consultation with the village attorney, the zoning administrator shall make a written decision within 60 calendar days of when the petition was submitted.
 - 3. **Notification of decision**. Within a reasonable time following completion of the interpretation, the zoning administrator sends a duplicate copy of the interpretation by regular mail and/or email to the individual requesting the interpretation and provides a copy of the same to the Plan Commission, the village attorney, and those village employees and agents involved in the administration of this chapter, as appropriate.
 - 4. Public record copy. A duplicate copy of the interpretation is retained as a public record.
- B. **Plan Commission review on appeal.** If a final decision of the zoning administrator is appealed as provided for in this division, the general steps outlined below shall be used to render an interpretation.
 - 1. **Submittal of application materials**. The zoning administrator forwards the application and other materials the applicant submitted to the Plan Commission along with the administrator's interpretation.
 - 2. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator places the matter on the meeting agenda of the Plan Commission.
 - 3. **Meeting**. Allowing for proper notice, the Plan Commission considers the appeal at a regular or special meeting.
 - 4. **Decision**. In consultation with the village attorney, the Plan Commission makes a written decision within 60 calendar days of when the zoning administrator's decision was appealed.
 - 5. **Preparation of decision document**. Based on the action of the Plan Commission, the zoning administrator within 15 calendar days of such decision prepares a decision document consistent with this division.
 - 6. **Applicant notification**. Within a reasonable time following the Plan Commission's decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
 - 7. Public record copy. A duplicate copy of the decision document is retained as a public record.

70.730 Basis of decision

- A. General. In consultation with the village attorney and others as appropriate, the review authority shall (1) evaluate the section of this chapter in question and those that are related, (2) consider the purposes of this chapter set forth in s. 70.05 and other parts of the chapter along with applicable legislative findings contained in this chapter, and (3) consider other applicable interpretations that have previously been made and make a decision consistent with this division giving this chapter its most reasonable application. If the review authority cannot make a reasonable interpretation, a determination shall not be issued.
- B. Floodplain zoning. If an unclear provision relates to the floodplain regulations and is required by ch. NR 116, Wis. Admin. Code, the provision shall be interpreted in light of the standards in ch. NR 116 in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.
- C. Shoreland-wetland zoning. If an unclear provision relates to the shoreland-wetland regulations and is required by ch. NR 117, Wis. Admin. Code, the provision shall be interpreted in light of the standards in ch. NR 117 in effect on the date of the adoption of this ordinance or in effect on the date of the most recent text amendment to this ordinance.
- D. Similarity of land uses. In making a determination as allowed under s. 70. [11.06.32] with respect to similarity of land uses, the zoning administrator should consider (1) the nature of the requested use; (2) whether the requested use is consistent with the Village's comprehensive plan; and (3) whether the requested use is consistent with the purposes of each of the zoning districts where the similar use is allowed either by right or as a conditional use.

70.731 Repeal or revision of an interpretation

The review authority may rescind or modify an interpretation the review authority issued if such interpretation is deemed to be incorrect in whole or in part.

70.732 Interpretation content

An interpretation shall be in writing and contain the following:

- 1. the name of the person posing the question,
- 2. the section number of this chapter in question,
- 3. the question or alleged ambiguity,
- 4. the factors that were considered in making the interpretation,
- 5. the interpretation,
- 6. other information the review authority deems appropriate,
- 7. the signature of the zoning administrator, and
- 8. the date of decision.

70.733 Effect of interpretation

An interpretation once rendered shall have full effect as if set forth in this chapter. Where appropriate, interpretations should be addressed through the amendment process. If the review authority determines that it is not possible to make a reasonable interpretation, such decision shall not affect the validity of any section of this chapter.

70.734 Compilation of interpretations

The zoning administrator shall keep a written record of all interpretations in effect and make them available for public inspection during normal office hours.

70.735 Appeal

An aggrieved person may, without time constraint, appeal an interpretation made pursuant to this division by filing an appeal with the Plan Commission. Following the final decision of the Plan Commission, an aggrieved person may appeal such decision to a court of competent jurisdiction without time constraint.

70.735 to 70.739 Reserved

DIVISION 18 ADMINISTRATIVE APPEAL

70.740 Generally

Recognizing that there may be situations where a property owner or another party believes that the zoning administrator made an error in administering a zoning code, the state legislature established a mechanism to allow the Zoning Board of Appeals to review alleged administrative errors. This division describes the requirements and procedures for reviewing an alleged administrative error.

70.741 Initiation

Any person aggrieved by a final decision of the zoning administrator may file an appeal with the Zoning Board of Appeals consistent with this division.

70.742 Review procedure

The general steps outlined below shall be used in the review of an administrative appeal.

- 1. **Submittal of appeal**. The applicant submits a written appeal to the village clerk within 30 calendar days of the date of the administrative decision being appealed, unless a different timeframe is established.
- 2. **Notification of appeal.** The village clerk provides a duplicate copy of the appeal to the Zoning Board of Appeals and the zoning administrator.
- Compilation and submittal of record. The zoning administrator compiles a complete and accurate record relating to the action being appealed and transmits it to the Zoning Board of Appeals in a timely manner.
- 4. Special notice to Department of Natural Resources. If the administrative appeal relates to a decision relating to the floodplain regulations or shoreland-wetland regulations in this chapter, the zoning administrator sends a copy of the application and public hearing notice to the regional office of the Wisconsin Department of Natural Resources by regular mail and/or email at least 10 calendar days before the date of the public hearing.
- 5. **Special notice to parties in interest**. The chairperson of the Zoning Board of Appeals gives notice for the public hearing to the parties in interest, including the applicant and the zoning administrator.
- 6. **General notice**. The chairperson of the Zoning Board of Appeals provides a class 2 public notice and meeting agenda notice consistent with Division 2 of Article 4.
- 7. **Public hearing**. Allowing for proper notice, the Zoning Board of Appeals conducts a public hearing consistent with Division 3 of Article 4. Prior to the close of the public hearing, the applicant or the Zoning Board of Appeals may request a continuance consistent with Division 3 of Article 4.
- 8. **Decision**. After the public hearing has been closed, the Zoning Board of Appeals makes a decision to affirm the zoning administrator's decision, set aside the decision, or modify the decision. The Zoning Board of Appeals may render its decision at the same meeting the matter was initially considered or at a subsequent meeting, but no later than 40 calendar days after the date of the initial meeting unless the applicant agrees to an extension of a specified duration.
- 9. **Notification of decision**. Within a reasonable time following the Zoning Board of Appeals' decision, the village clerk sends the decision document to the applicant by regular mail and/or email and provides a duplicate copy of the same to the zoning administrator and the Plan Commission.
- 10. Notification to Department of Natural Resources. If the administrative appeal relates to a decision relating to the floodplain regulations or shoreland-wetland regulations in this chapter, the village clerk sends a copy of the decision document to the regional office of the Wisconsin Department of Natural Resources by regular mail and/or email.
- 11. Public record copy. A duplicate copy of the decision document is retained as a public record.

70.743 Basis of decision

- A. **Generally**. The Zoning Board of Appeals shall determine if the zoning administrator made an error in judgment as applied to the instance being appealed.
- B. **Historic property**. In an action involves a historic property, as defined in s. 44.31(3), Wis. Stats., the Zoning Board of Appeals shall consider any suggested alternatives or recommendations submitted by the landmarks commission, if one has been established, or the Plan Commission.

70.744 Effect of appeal

An appeal shall stay all legal proceedings in furtherance of the action from which the appeal is made, unless the zoning administrator certifies in writing to the Zoning Board of Appeals that a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Board of Appeals or by a court of record on application, with notice to the zoning administrator from whom appeal is made.

70.745 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

70,746 to 70,749

Reserved

DIVISION 19 VARIANCE

70.750 Generally

Recognizing that there may be situations where a zoning regulation that if enforced would cause unnecessary hardship to individual landowners, the state legislature established a mechanism to allow a municipality to issue a variance in those instances where a minor deviation would be appropriate to alleviate such hardship without circumventing or undermining the intent of the municipality's zoning regulations. This division describes the requirements and procedures for reviewing variance applications for dimensional standards.

70.751 Initiation

The owner of the subject property may submit an application for a variance.

70.752 Review procedure

The general steps outlined below shall be used in the review of a variance application.

- Submittal of application materials. The applicant submits a completed application and other required
 materials to the zoning administrator along with the application fee as may be established by the Village
 Board.
- 2. **Determination of completeness.** The zoning administrator reviews the submittal within 10 days of receiving the application and other required materials to make sure it is complete and ready for further review. If it is not complete, the zoning administrator will notify the applicant in writing of such deficiencies and that the applicant has 3 months from the date of the notice to resubmit the application or forfeit the application fee. The zoning administrator will take no further steps to process the application until the deficiencies are remedied. The incomplete application is retained as a public record.
- 3. **Review date**. When the zoning administrator determines the application is complete, he or she schedules the review with the Zoning Board of Appeals consistent with its adopted calendar.
- 4. Special notice to Department of Natural Resources. If the application relates to the floodplain regulations or shoreland-wetland regulations in this chapter, the zoning administrator sends a copy of the application and public hearing notice to the regional office of the Wisconsin Department of Natural Resources via regular mail and/or email at least 10 calendar days before the date of the public hearing.

- 5. **General notice.** Consistent with Division 2 of Article 4, the zoning administrator provides for class 2 public notice, property owner notification, and meeting agenda notice.
- 6. **Staff report preparation and distribution.** The zoning administrator prepares a written staff report as described in this division and provides a copy to each member of the Zoning Board of Appeals and the applicant. The zoning administrator provides a copy to interested people upon request.
- 7. **Public hearing**. Allowing for proper notice, the Zoning Board of Appeals holds a public hearing consistent with Division 3 of Article 4. Prior to the close of the public hearing, the applicant or the board may request a continuance consistent with Division 3 of Article 4. If the public hearing is adjourned, the Zoning Board of Appeals may direct the zoning administrator, the village engineer, and/or village attorney to conduct additional research and to prepare such documents it deems necessary, including a preliminary decision document.
- 8. **Decision.** After the public hearing has been closed, the Zoning Board of Appeals after considering the comments and the staff report makes a decision based on the decision criteria contained in this division to (i) approve the variance, (ii) approve the variance with conditions, or (iii) deny the variance. The Zoning Board of Appeals may render its decision at the same meeting the public hearing is conducted or at a subsequent meeting, but no later than 40 calendar days after the public hearing unless the applicant agrees to an extension of a specified duration.
- 9. **Preparation of decision document**. Based on the action of the Zoning Board of Appeals, the zoning administrator prepares a decision document consistent with this division.
- 10. **Applicant notification.** Within a reasonable time following the Zoning Board of Appeals' decision, the zoning administrator sends the decision document to the applicant by regular mail and/or email.
- Notification to Department of Natural Resources. If the application relates to the floodplain regulations or shoreland-wetland regulations in this chapter, the zoning administrator sends a copy of the decision document to the regional office of the Wisconsin Department of Natural Resources via regular mail and/or email.
- 12. Acceptance by property owner. If the Zoning Board of Appeals grants the variance with one or more condition of approval, the property owner must sign the decision document to acknowledge the imposition of such condition or conditions and return the same to the zoning administrator within 6 months of the decision. Prior to the expiration of the previously specified time period, the property owner may submit a petition to the zoning administrator requesting an extension and the zoning administrator may, with cause, extend the period within which the decision document must be signed. If the signed decision document is not returned within the initial or extended time period, if any, the decision shall become null and void without any further action by the Village. The decision document shall only become effective when all required signatures have been obtained and the original signature copy is returned to the zoning administrator.
- 13. Public record copy. A duplicate copy of the decision document is retained as a public record.
- 14. **Additional procedural steps**. If the Zoning Board of Appeals grants the variance, the applicant shall then follow other review procedures as may be required.

70.753 Basis of decision

The Zoning Board of Appeals shall base its decision upon the standard for a variance described in s. 62.23(7)(e)(7), Wis. Stats., and applicable judicial interpretations of such statute.

70.754 Limitations on issuing a variance

The following actions shall not be allowed by an area variance, and shall be deemed to be a use variance subject to the use variance standard in s. 62.23(7)(e)7.(d), Wis, Stats.:

- expansion of a nonconforming use (e.g., expansion of area, increase in operational characteristics, etc.), or
- 2. modification to lot size requirements so as to increase the permitted density or intensity of use.

70.755 Imposition of conditions

In approving a variance, the Zoning Board of Appeals may impose such conditions and restriction as may be necessary to grant approval.

70.756 Application form and content

The application submittal shall include an application form as may be used by the Village and a project map prepared at an appropriate scale depicting the information listed in Appendix F.

70.757 Staff report content

The staff report should contain the following:

- 1. preliminary findings for the decision criteria listed in this division;
- 2. a preliminary recommendation to approve the application, approve the application with conditions, or deny the application;
- a preliminary list of conditions for approval whether the staff recommendation is for approval or denial;
- 4. other information deemed necessary.

70.758 Content of decision document

- A. Approval. If an application for a variance is approved, the decision document should include the following:
 - 1. a statement that the variance is approved;
 - 2. a description of the variance;
 - 3. reasons for the decision based on the criteria listed in this division:
 - 4. conditions of approval, if any;
 - if one or more conditions of approval are imposed, a statement indicating that the property owner must sign the decision document and return it to the zoning administrator to acknowledge acceptance of the same;
 - 6. a statement that the approval will automatically expire 12 months after the date of approval unless substantial work as authorized by the approval has commenced and continues in good faith to completion and that the Zoning Board of Appeals may, with cause, grant a one-time extension, not to exceed 6 months;
 - 7. a statement that the applicant may appeal the decision to a court of competent jurisdiction;
 - 8. a statement that an aggrieved person, other than the applicant, may appeal the decision and that any work done by the applicant as authorized by the approval is done at the applicant's risk;
 - 9. other information the Zoning Board of Appeals or zoning administrator deems appropriate;
 - 10. the signature of the chairperson of the Zoning Board of Appeals; and
 - 11. the date of the decision.
- B. Denial. If the application for a variance is denied, the decision should include the following:
 - 1. a statement that the variance request is denied,
 - 2. a description of the proposed variance,
 - 3. reasons for the decision based on the criteria listed in this division,
 - 4. a statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration provided there is a substantial change in the circumstances relating to the application,
 - 5. a statement that the decision may be appealed as provided for in this division,
 - 6. other information the Zoning Board of Appeals or zoning administrator deems appropriate,

- 7. the signature of the chairperson of the Zoning Board of Appeals, and
- 8. the date of the decision.

70.759 Effect of approval

- A. **Generally**. An approved variance merely sets aside the rule or regulation from which relief is sought. All other rules and regulations not part of the variance decision must be followed. The variance runs with the land.
- B. Creation of nonconformity. If a variance is granted and creates a nonconforming situation, the premises is subject to all applicable provisions relating to nonconformities set forth in Article 3.

70.760 Effect of denial

If the Zoning Board of Appeals denies a variance application, the board may not rehear the same, or essentially the same, application unless there has been substantial change in the circumstances relating to the application.¹³

70.761 Expiration of an approval

A variance approval shall automatically expire 12 months after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion. Upon petition and with cause, the zoning administrator may grant a one-time extension, not to exceed 12 months, provided (1) the permit holder requests the extension prior to the expiration of the permit, (2) the permit holder clearly demonstrates that circumstances beyond his or her control prevented the start of construction and the continuation of the same, and (3) the project complies with this chapter in effect at the time the extension is granted.

.70.762 Appeal

An aggrieved person may appeal a final decision made pursuant to this division by filing an appeal with a court of competent jurisdiction within 30 calendar days of the final decision.

¹³ Commentary: See Tateoka v City of Waukesha Bd. of Zoning Appeals, 220 Wis.2d 656, 583 N.W. 2d 871 (Ct. App. 1998).